

<p style="text-align: right;">145</p> <p>UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK -----X SILVON S. SIMMONS, Plaintiff -vs- JOSEPH M. FERRIGNO II, SAMUEL GIANCURSIO, MARK WIATER, CHRISTOPHER MUSCATO, ROBERT WETZEL, MICHAEL L. CIMINELLI, JOHN DOES 1-20, CITY OF ROCHESTER, SHOTSPOTTER, INC., SST, INC., JOHN DOES 21-30 and PAUL C. GREENE, Defendants -----X Civil Action No. 17-CV-6176-MAT-MWP</p> <p>Continued Deposition of SILVON S. SIMMONS taken pursuant to notice via videoconference on Thursday, December 10, 2020, commencing at 11:10 a.m. Eastern Standard Time.</p> <p>Reported by: COMPUTER REPORTING SERVICE Donna Frost 16 East Main Street, Suite 7 Rochester, New York 14614 (585) 325-3170</p>	<p style="text-align: right;">147</p> <p style="text-align: center;">INDEX</p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;">2</td><td>Silvon Simmons</td><td></td></tr> <tr><td>3</td><td>Examination by Mr. Campolieto</td><td>148 - 295</td></tr> <tr><td>4</td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td></tr> <tr><td>7</td><td>Reporter certificate</td><td>296</td></tr> <tr><td>8</td><td>Witness certificate</td><td>297</td></tr> <tr><td>9</td><td>Errata sheet</td><td>298</td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td style="text-align: center;">SIMMONS EXHIBITS</td><td></td></tr> <tr><td>13</td><td>No. 9 - Photocopy Bates COR003900</td><td>226</td></tr> <tr><td>14</td><td>No. 10 - Photocopy Bates COR003861</td><td>228</td></tr> <tr><td>15</td><td>No. 11 - Photocopy Bates COR003901</td><td>231</td></tr> <tr><td>16</td><td>No. 12 - Photocopy Bates COR003904</td><td>233</td></tr> <tr><td>17</td><td>No. 13 - Photocopy Bates COR003911</td><td>235</td></tr> <tr><td>18</td><td>No. 14 - Photocopy Bates COR003913</td><td>237</td></tr> <tr><td>19</td><td>No. 15 - Photocopy Bates COR003917</td><td>238</td></tr> <tr><td>20</td><td>No. 16 - Photocopy Bates COR003935</td><td>239</td></tr> <tr><td>21</td><td>No. 17 - Photocopy Bates COR003936</td><td>240</td></tr> <tr><td>22</td><td>No. 18 - Photocopy Bates COR003937</td><td>244</td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td></tr> </table>	2	Silvon Simmons		3	Examination by Mr. Campolieto	148 - 295	4			5			6			7	Reporter certificate	296	8	Witness certificate	297	9	Errata sheet	298	10			11			12	SIMMONS EXHIBITS		13	No. 9 - Photocopy Bates COR003900	226	14	No. 10 - Photocopy Bates COR003861	228	15	No. 11 - Photocopy Bates COR003901	231	16	No. 12 - Photocopy Bates COR003904	233	17	No. 13 - Photocopy Bates COR003911	235	18	No. 14 - Photocopy Bates COR003913	237	19	No. 15 - Photocopy Bates COR003917	238	20	No. 16 - Photocopy Bates COR003935	239	21	No. 17 - Photocopy Bates COR003936	240	22	No. 18 - Photocopy Bates COR003937	244	23			24			25		
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<p style="text-align: right;">146</p> <p>2 APPEARANCES: 3 BURKWIT LAW FIRM, PLLC 4 By: CHARLES F. BURKWIT, Esq. 16 East Main Street, Suite 450 5 Rochester, New York 14614 Attorneys for Plaintiff burkwitesq@aol.com</p> <p>6 BARCLAY DAMON, LLP 7 By: PAUL A. SANDERS, Esq. 2000 Five Star Bank Plaza 8 100 Chestnut Street 9 Rochester, New York 14604 Attorneys for Defendants Shotspotter, Inc., SST, Inc. and Paul C. Greene psanders@barclaydamon.com</p> <p>10 KILPATRICK TOWNSEND & STOCKTON, LLP 11 By: JORDAN TRENT JONES, Esq. 12 1080 Marsh Road Menolo Park, California 94025 13 Esq. of counsel to Barclay Damon jtjones@jtrentjoneslaw.com</p> <p>14 KILPATRICK TOWNSEND & STOCKTON, LLP 15 By: BENJAMIN M. KLEINMAN, Esq. Two Embarcadero Center, Suite 1900 16 San Francisco, California 94111 Esq. of counsel to Barclay Damon bkleinman@kilpatricktownsend.com</p> <p>17 TIMOTHY R. CURTIN CORPORATION COUNSEL 18 By: JOHN M. CAMPOLIETO, Esq. 30 Church Street 19 City Hall Room 400A 20 Rochester, New York 14614 Attorneys for Defendants - Ferrigno, Giancursio, 21 Wiatr, Muscato, Wetzel, Ciminelli, et al. john.campolieto@cityofrochester.gov</p> <p>22 23 24 25</p>	<p style="text-align: right;">148</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 SILVON S. SIMMONS 3 called herein as a witness, having been duly sworn, 4 testified as follows: 5 EXAMINATION BY MR. CAMPOLIETO: 6 Q. Good morning, Mr. Simmons. How are you? 7 A. All right. Yourself? 8 Q. Pretty good, thank you. Do you recall being 9 deposed on November 19th, 2020? 10 A. Yes, sir. 11 Q. Do you recall being sworn -- 12 A. Yeah. 13 Q. -- to tell the truth? 14 A. Yes. 15 Q. That will continue today; is that correct? 16 A. Yes. 17 Q. I'll try to do this fairly expeditiously, Mr. 18 Simmons. If you don't -- if I'm not clear with my 19 question, which could be the case, I've been ill 20 recently, just ask me to repeat the question and we'll 21 get it straightened out. 22 A. All right. 23 Q. Okay. I'm going to start with the evening of 24 April 1st, 2016 going into April 2nd, 2016. Do you 25 recall being shot that night, Mr. Simmons?</p>																																																																								

<p style="text-align: right;">149</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. Yes. 3 Q. After you were shot do you recall any 4 emergency medical personnel arriving at the scene where 5 you were shot? 6 A. Yes. 7 Q. So you were conscious at the time that they 8 arrived? 9 A. Yes. 10 Q. Do you recall them saying anything to you? 11 A. Yes. 12 Q. What was that? 13 A. Somebody from the ambulance staff told me I 14 was going to be all right and they didn't like this. 15 It was somebody from the ambulance or the police. 16 There was a lot of commotion. I'm pretty sure it was 17 the ambulance squad. 18 Q. Did you respond in any way to them? 19 A. I couldn't at the time. 20 Q. Why couldn't you? 21 A. I was in terrible shape. They was trying to 22 put stuff all in my face, handcuff me, restrain me to a 23 stretcher. 24 Q. I'm going to just separate that. The 25 ambulance personnel weren't trying to handcuff you; is</p>	<p style="text-align: right;">151</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. I don't know. 3 Q. Do you recall any ambulance personnel or 4 medical personnel saying anything else to you? 5 A. Not at the moment. 6 Q. I'm sorry. Did you say not at the moment? 7 A. Not at the moment, I do not recall. 8 Q. Then you eventually were taken to a -- I'm 9 sorry -- strike that. 10 You had mentioned they cut off your clothes. Did 11 they take off your shoes also? 12 A. Yes. 13 Q. Where they cut off your clothes is that where 14 you were laying at the time they arrived? 15 A. Yes. 16 Q. Did they eventually remove you from the back 17 yard? 18 A. Yes. 19 Q. How long from when the medical personnel 20 arrived were you moved to the ambulance? 21 A. I don't know when they arrived. I can't -- I 22 don't know that time limit. I know I was back there 23 forever. I was shot and back there forever. They 24 could have been there and didn't get in yet. I don't 25 know what happened with them, but by the time I got</p>
<p style="text-align: right;">150</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 that correct? 3 A. No. No, not the ambulance. 4 Q. Okay. I'm more concerned at this moment with 5 what the ambulance personnel were doing. You said they 6 were trying to put things on your face? 7 A. So when they showed up in the back yard they 8 cut off my clothes, trying to give me some oxygen I 9 assume or some sleeping stuff, whatever they was trying 10 to do. Pain medicine, I don't know what they was 11 trying to do. Whatever the mask, they put a mask on my 12 face. 13 Q. Okay. So at that point you weren't able to, 14 of course, talk to them or to reply to them; is that 15 correct? 16 A. I was talking to them when I got in the 17 ambulance. Me and that mask had a problem. I had 18 excruciating pain shooting through my leg. So as I'm 19 trying to take it off somebody trying to cuff me. I'm 20 moving my head trying to talk, tell them why they can't 21 cuff my leg. 22 Q. You heard somebody say that you were going to 23 be all right? 24 A. Yes. 25 Q. Who do you remember saying that?</p>	<p style="text-align: right;">152</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 shot and by the time I came was a long time. 3 Q. Can you estimate the time from when they were 4 trying to put the mask on you to the time that you were 5 taken to the ambulance? 6 A. No. I can't estimate all that. I don't know 7 no times. Like after I got shot, whatever happened 8 after that I don't know the times. I can't tell you 9 ten o'clock, eleven o'clock, twelve o'clock, I don't 10 know. 11 Q. Besides putting the mask on you and cutting 12 off your clothes did they give you any other treatment 13 while you were laying on the ground? 14 A. Not that I'm aware of. They -- 15 Q. Go ahead. 16 A. They might have put something over my holes. 17 I was leaking real bad. 18 Q. Are you referring to bullet wounds? 19 A. Yes. 20 Q. How were you taken to the ambulance from the 21 ground where you lay? 22 A. Stretcher. 23 Q. Who put you on the stretcher? Do you recall 24 who put you on the stretcher? 25 A. No, I don't recall. It was the ambulance</p>

<p style="text-align: right;">153</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 people put me on the stretcher and there was some 3 police around. I'm pretty sure the ambulance people 4 put me on the stretcher. 5 Q. They carried you to the ambulance and put you 6 into the ambulance; is that correct? 7 A. Yes. 8 Q. You had mentioned that you had had 9 conversation with them - with the ambulance personnel - 10 when you were in the ambulance? 11 A. Yes. 12 Q. What was that conversation? 13 A. I'm not clear on everything. I know when I 14 was trying to tell them to make sure that they swab my 15 hands for gunpowder, I know I was trying to tell them 16 my leg was killing me, and we was going back and forth 17 about my leg. I didn't know at the time that I had 18 sciatic problems. I just knew my leg from the sole of 19 my feet was killing me. 20 Q. When did you learn that you had sciatic nerve 21 problems? 22 A. In the hospital. 23 Q. Is there anything else you recall about your 24 conversations with the ambulance personnel? 25 A. No, not at the moment.</p>	<p style="text-align: right;">155</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 of the way after I got shot and they showed up until 3 the sheriffs came on the scene later on during the 4 recovery process before I went downtown. 5 Q. I'm trying to piece this together. The 6 sheriff's office showed up before you went downtown can 7 you explain what you're referring to? 8 A. After I got arraigned and all that. I was 9 around the police. From the time the officer shot me 10 the police was around until the time after Castro came 11 and said whatever he said and they turned me over from 12 RPD to Monroe County Sheriffs. It was heavy police 13 presence around. 14 Q. Okay. I'm referring specifically to the time 15 when you were taken into the ambulance. 16 A. It was police presence the whole night. 17 Q. Right now we're talking specifically about 18 the ambulance. Okay? And you recall police officers 19 being in the ambulance with you? 20 A. Yes, if I'm not mistaken. 21 Q. Do you know what kind of police officers they 22 were, was it sheriff, RPD? 23 A. It was RPD. 24 Q. You don't recall the name of the officer that 25 was with you?</p>
<p style="text-align: right;">154</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. So you believe that you may recall something 3 else? 4 A. Maybe in the future if I start to think about 5 it hard enough. 6 Q. Can you think about it pretty hard right now? 7 A. Yeah. I can't recall right now. 8 Q. Did you know where you were being taken when 9 you were put into the ambulance? 10 A. To the hospital. 11 Q. Did you know which hospital? 12 A. No. 13 Q. Were there any police officers in the 14 ambulance with you when you were taken to the hospital? 15 A. I want to say yes. 16 Q. Do you recall who? 17 A. No. I didn't know who nobody was. 18 Q. Did the police officer say anything to you in 19 the ambulance? 20 A. They could have. 21 Q. But you don't recall having a conversation 22 with them? 23 A. It was police there and I asked police also 24 to check for gunpowder residue. It was a million 25 police there that night it seemed like from every step</p>	<p style="text-align: right;">156</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. No, sir. I was shot. I was shot. All I can 3 recall is praying to God for my life not to die on the 4 way to the hospital. 5 Q. Do you recall how many officers were in the 6 ambulance with you? 7 A. No. 8 Q. But at least one? 9 A. Yes, if I'm not mistaken. 10 Q. What kind of treatment did you receive in the 11 ambulance? 12 A. I don't know. 13 Q. You don't know? 14 A. No. 15 Q. Do you recall being attended to at that time? 16 A. It was people in the ambulance. 17 Q. They were attending to you? 18 A. Yes. 19 Q. When you got to the hospital what occurred? 20 A. They kept trying to put a mask on me and 21 sedate me. 22 Q. So eventually the ambulance came to the 23 hospital and stopped, correct? 24 A. Repeat that. 25 Q. Eventually the ambulance arrived at the</p>

<p style="text-align: right;">157</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 hospital and parked; is that correct?</p> <p>3 A. I don't know. I don't know what they did in 4 the hospital. By that time I was on the stretcher. I 5 know we made it to the hospital and I know we made it 6 inside the hospital.</p> <p>7 Q. So you were taken out of the ambulance and 8 brought into the hospital?</p> <p>9 A. Yes.</p> <p>10 Q. Were there doctors or nurses there to accept 11 you there at the hospital?</p> <p>12 A. It was everybody. It was police, whoever 13 rolled me on the stretcher and whoever received me.</p> <p>14 Q. This whole time you were conscious and aware 15 of what was going on?</p> <p>16 A. I was going in and out.</p> <p>17 Q. Was there a time that you lost 18 consciousnesses or were you in and out the whole time?</p> <p>19 A. Numerous times.</p> <p>20 Q. What kind of treatment did you receive at the 21 hospital if you can recall or if you have independent 22 knowledge of the treatment you received?</p> <p>23 A. I don't know the exact names of whatever 24 medicines that they was giving me. I have to look that 25 over.</p>	<p style="text-align: right;">159</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 A. Yes, they put me under.</p> <p>3 Q. Do you know what happened when you were put 4 under?</p> <p>5 A. No.</p> <p>6 Q. Did you eventually find out what happened or 7 what kind of procedure was done on you?</p> <p>8 A. You mean as far as surgery wise?</p> <p>9 Q. That's correct.</p> <p>10 A. Yes.</p> <p>11 Q. What occurred?</p> <p>12 A. They popped my stomach open. Matter of fact, 13 I woke up during surgery and seen them in my stomach. 14 There's a bunch of doctors in there or a bunch of staff 15 in there. Somebody came from behind me, pulled my head 16 back and then they put another mask on me.</p> <p>17 Q. Okay. What happened after they put the other 18 mask on you?</p> <p>19 A. I woke up sometime later in the future, a 20 couple of days later, a day later, couple of days 21 later. I'm not sure of the time, but --</p> <p>22 Q. So we can assume that you were brought to the 23 hospital, you were given anesthesia, you were going 24 through some kind of surgery, and this is on April 1st, 25 2016; is that correct?</p>
<p style="text-align: right;">158</p> <p>1 S. Simmons - Examination by Mr. Campolioto</p> <p>2 Q. So they were giving you medicines?</p> <p>3 A. They was giving me something. I'm not sure 4 what it was though.</p> <p>5 Q. How were you receiving that medicine?</p> <p>6 A. I don't know, through face mask, through IVs.</p> <p>7 Q. Did you have any conversation with the 8 medical personnel at the hospital when you arrived at 9 the hospital?</p> <p>10 A. I said a few things to them before they tried 11 to put me under.</p> <p>12 Q. What were those things?</p> <p>13 A. I don't recall.</p> <p>14 Q. But you do recall having conversation?</p> <p>15 A. I do recall talking.</p> <p>16 Q. But you don't recall what you said?</p> <p>17 A. No.</p> <p>18 Q. Do you recall what they said to you?</p> <p>19 A. No.</p> <p>20 Q. Were you eventually put under?</p> <p>21 A. Yes.</p> <p>22 Q. By that you were given some kind of 23 anesthesia and you lost consciousness?</p> <p>24 A. You asking me?</p> <p>25 Q. Yes, I'm asking. I don't know these answers.</p>	<p style="text-align: right;">160</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 A. Yes.</p> <p>3 Q. When you woke up you said a day or two later, 4 do you know if it was the 1st when you woke up or was 5 it the 2nd?</p> <p>6 A. The 1st was about over either before or 7 shortly after I arrived at the hospital. Like it was 8 late in the night.</p> <p>9 Q. So when you woke up it would be the 2nd?</p> <p>10 A. I don't know what date it was when I woke up, 11 the 2nd or the 3rd.</p> <p>12 Q. When you woke up can you describe your 13 condition?</p> <p>14 A. I had tubes in my body. I had two tubes in 15 my mouth, stuff on my fingers, a bunch of stuff 16 monitoring my heart rate, my breathing. I had a button 17 IV or a pain button that was hooked up to my arm.</p> <p>18 Q. When you mentioned that you had two tubes in 19 your mouth I assume you were intubated with the tubes 20 and you couldn't speak; is that correct?</p> <p>21 A. They put two tubes in my mouth and then later 22 on after I start writing and stuff they inserted one 23 more tube into my mouth. They say one was for 24 breathing, one was for throw up, and one was for - I 25 want to say - food.</p>

<p style="text-align: right;">161</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. You couldn't speak while these tubes were in 3 your mouth -- 4 A. No. 5 Q. -- is that correct? 6 A. No. 7 Q. When you woke up in the hospital were you in 8 a private room or was there somebody in the room with 9 you? 10 A. It was numerous, like numerous RPD officers 11 in the room with me. 12 Q. Was there any other patient in the room or 13 was this a private room for just you? 14 A. It was just me. It was just one room with 15 nobody else, but me and RPD. 16 Q. When you woke up no doctors were in the room, 17 no family members? 18 A. They wouldn't allow nothing. They didn't 19 allow me numerous requests. Couldn't see family, 20 couldn't talk to family. I couldn't make a phone call. 21 I couldn't have nobody else call, nothing. 22 Q. When you say this -- 23 A. Just police. 24 Q. When you say this, that you couldn't make any 25 calls or talk to anybody, was that just at that moment</p>	<p style="text-align: right;">163</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 understood. 3 Q. What did they say to you? 4 A. When I asked for the paper? 5 Q. Yes. 6 A. Just in general health questions. 7 Q. Did they tell you what surgery had been 8 performed on you? 9 A. No. 10 Q. Did you ask what kind of surgery had been 11 performed on you? 12 A. I mean common sense told me since I just got 13 shot that they had did something with the bullets and 14 it was kind of common sense what happened. I woke up 15 alive. I just got shot and I'm in the hospital. 16 So it was like it was not too many questions for me 17 to ask. Plus I had other things on my mind other than 18 the surgery. Eventually I did ask them why was they in 19 my stomach and why did I wake up in a surgery. 20 Q. Was there an explanation given to you? 21 A. They waved that off and somebody -- one of 22 them said that that happens during surgery. 23 Then -- oh, and it was like different shifts. I 24 had like different nurses on different days at 25 different times. So one of them also told me they cut</p>
<p style="text-align: right;">162</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 or did they last your whole stay in the hospital? 3 A. That lasted half of my stay in the hospital. 4 Q. Did there come a time after you woke up when 5 a doctor or a nurse came into the room? 6 A. Yes. 7 Q. What occurred when they came into the room? 8 A. They asked -- I was trying to ask questions. 9 They asked some questions and then they left. 10 Q. Now you were intubated so you couldn't speak; 11 is that right? 12 A. Correct. 13 Q. So you couldn't really ask any questions? 14 A. Yes, I could. 15 Q. You could? 16 A. With hand movements I'm asking for get me 17 something to write with, let me get some paper. I mean 18 I was able to communicate. 19 Q. And you communicated through hand movements 20 and did you write things out, write questions out? 21 A. Yes. 22 Q. But you couldn't speak? 23 A. I couldn't speak clearly. I could hum. I 24 could understand myself. That's why I asked for 25 something to write with and a piece of paper, but they</p>	<p style="text-align: right;">164</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 my stomach open because they had to check for internal 3 bleeding. 4 Q. What was your pain level at the time that you 5 woke up? 6 A. A thousand. 7 Q. So on a scale of one to ten when you woke up 8 you were at ten? 9 A. Ten. Ten. 10 Q. During this time when you woke up and you 11 were in the room did the RPD say anything to you or ask 12 you any questions? 13 A. They said some smart stuff to me. Mainly it 14 was a bunch of them looking at me with the intimidation 15 face like. It was like they just stared at me. They 16 was telling me to shut up, stop asking questions, 17 wouldn't let me -- they was totally -- it was no 18 communication whatsoever. 19 Q. Okay. The officers that were in the room do 20 you know who they were? 21 A. No, sir. 22 Q. Were they Rochester Police Department 23 Officers or were they Monroe County Sheriffs? 24 A. Yes, sir, they were Rochester. 25 Q. Did you see any sheriffs in the office with</p>

<p style="text-align: right;">165</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 you? 3 A. Not when I woke up. Like I say, the sheriffs 4 didn't come until after Judge Castro came and read 5 whatever the indictments was, or whatever that was that 6 you all came up with, fabricated to charge me.</p> <p>7 Q. So you don't recall what day this was? It 8 could have been April 2nd or April 3rd, is that what 9 you remember?</p> <p>10 A. Let's see, I got shot on Friday -- Saturday, 11 Sunday, or Monday. I'm not sure of the exact date. 12 I'm not sure of the exact date, but I'm pretty sure the 13 notes, if I look over the police reports the notes will 14 have dates on there. The notes that you probably got 15 in front of you probably got the dates on there. So I 16 don't recall the dates.</p> <p>17 Q. Do you recall when Judge Castro came to your 18 room?</p> <p>19 A. I don't recall what date that was neither.</p> <p>20 Q. Do you recall how long it was after you woke 21 up that he came?</p> <p>22 A. Couple days.</p> <p>23 Q. Prior to Judge Castro coming did you meet 24 with any of your family members or any attorney?</p> <p>25 A. No.</p>	<p style="text-align: right;">167</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 still had the long tubes and I want to say I had the 3 catheter for a little bit before they took it out.</p> <p>4 Q. So there was a long tube, not down your 5 throat, but connected to your arm or wrist; is that 6 correct?</p> <p>7 A. I'm not following you.</p> <p>8 Q. You mentioned that they took the tubes out, 9 but they didn't take the long tubes out.</p> <p>10 A. The lung. The lung tube.</p> <p>11 Q. Lung?</p> <p>12 A. Yeah. I had two tubes, one for breathing I 13 guess and one for -- one to pump it up, one for 14 breathing, one to extract blood, something in that 15 area.</p> <p>16 Q. But these were not down your throat; is that 17 correct?</p> <p>18 A. No. Those wasn't down my throat. You said 19 what procedures I had. So the only procedures I had 20 after I woke up was them pulling the tubes out my mouth 21 and them snatching the tubes out of my ribs and my 22 lungs.</p> <p>23 Q. But they took the tubes out of your throat 24 before Judge Castro arrived in your room; is that 25 correct?</p>
<p style="text-align: right;">166</p> <p>1 S. Simmons - Examination by Mr. Campolieto</p> <p>2 Q. Did you talk to any family members or your 3 attorney prior to Judge Castro coming?</p> <p>4 A. No.</p> <p>5 Q. Did you talk to any of your doctors during 6 that time period between when you woke up and Judge 7 Castro came?</p> <p>8 A. I'm pretty sure I did.</p> <p>9 Q. Do you have any recollection of what you said 10 to them or they said to you?</p> <p>11 A. Not at this time.</p> <p>12 Q. Did you have any procedure, surgical, 13 medical, or otherwise, between the time you woke up and 14 the time Judge Castro came?</p> <p>15 A. Repeat that question.</p> <p>16 Q. Was there any medical procedures or surgeries 17 that occurred between the time you woke up and the time 18 Judge Castro arrived in your room?</p> <p>19 A. Surgery was over with. The only other 20 procedures that they had left to do after I woke up was 21 pull all them tubes out my throat and pull the catheter 22 out my penis.</p> <p>23 Q. Did they do this before Judge Castro arrived 24 in your room?</p> <p>25 A. They took the tubes out of my throat. I</p>	<p style="text-align: right;">168</p> <p>1 S. Simmons - Examination by Mr. Campolieto</p> <p>2 A. Yes.</p> <p>3 Q. So you could communicate verbally before 4 Judge Castro arrived in your room?</p> <p>5 A. Yes.</p> <p>6 Q. Did you communicate verbally before Judge 7 Castro arrived with any RPD members?</p> <p>8 A. I tried.</p> <p>9 Q. Did they respond to you?</p> <p>10 A. All I got was "Shut up. Stop talking."</p> <p>11 Q. Before Judge Castro arrived did anyone else 12 come to your room besides medical personnel and RPD?</p> <p>13 A. Not that I recall.</p> <p>14 Q. What happened when Judge Castro arrived?</p> <p>15 A. Sheriffs came with him. RPD was there for a 16 minute. They read something. He read something and 17 said "Now I'm turning you over to the Monroe County 18 Sheriffs." RPD and Monroe County Sheriffs had whatever 19 words they had and then they switched chairs and the 20 sheriffs was there.</p> <p>21 Q. Your attorney was not present; is that 22 correct?</p> <p>23 A. When Castro came?</p> <p>24 Q. Yes.</p> <p>25 A. I did have an attorney present when Castro</p>

<p style="text-align: right;">169</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 came. 3 Q. You did? 4 A. Yes. 5 Q. Who was that attorney? 6 A. I cannot recall her name at the time. She 7 just popped up. 8 Q. Did Judge Castro ask you if you plead -- if 9 you were guilty or not guilty? 10 A. Not guilty. 11 Q. He did ask you that question though, correct? 12 A. I don't recall if he asked me that question 13 right then and there. I know he read me what was 14 supposedly supposed to be my charges and all of that 15 other stuff. 16 Q. How long was he in your room? 17 A. Fifteen minutes, maybe a little more, maybe a 18 little less. 19 Q. After Judge Castro left what occurred? 20 A. I'm not sure what you asking me. 21 Q. What happened after Judge Castro left? 22 A. I'm still not sure what you're asking me. I 23 stayed in the room. 24 Q. Okay. 25 A. He left. Sheriffs that came with them, some</p>	<p style="text-align: right;">171</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 whoever the cocky white police officer who was there. 3 These are all police officers. Whoever was there from 4 the get go when I woke up. The one RPD dude said, "Oh, 5 let me see," and like clicked it tighter. They was 6 doing real -- they was -- they already judged me. 7 Q. Who already judged you? 8 A. RPD. I don't know everybody name. RPD, 9 whoever had on that uniform, whoever was in there 10 watching me between the time of me getting shot and the 11 time I got turned over to the sheriffs. So whatever 12 officers. 13 I'm pretty sure they keep a log book. So the 14 officers in the log book was the ones who either 15 tightened my cuffs, told me to shut up, wouldn't answer 16 my questions, balled up my papers, made sure the nurses 17 took the papers when I was trying to communicate. 18 Those officers. 19 Q. So officers that were in your room had 20 already judged you, is that what you believe? 21 A. I'm pretty sure. You know that's what I 22 believe. Yes, that's what I believe. 23 Q. Did you have any conversations with the 24 Monroe County Sheriff after the RPD had left your room? 25 A. Yeah, I talked to them.</p>
<p style="text-align: right;">170</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 of them stayed in the room. RPD, the one lady took the 3 tight cuffs off my wrist. Sheriffs put -- they put 4 something on my ankle, but it wasn't handcuffs -- It 5 was handcuffs so I couldn't run away. I couldn't walk 6 anyway, but they put something on me so I couldn't get 7 away from the bed, but I had enough room if I was able 8 to walk if I needed to walk around the bed. So they 9 switched over. The RPD took tight cuffs off. The 10 sheriff came put something on my right foot and cuffed 11 that to the bed. 12 Q. Now, you mentioned that RPD had taken their 13 cuffs off. Were they on your arms or wrists? 14 A. Yes. 15 Q. You said that they were tight? 16 A. Yeah, they was tight. I had marks and 17 bruises for the next six, eight months. Like you can 18 see the cuff marks. 19 Q. Did you tell anybody that they were tight 20 before they took them off? 21 A. Oh, yeah. Absolutely. The cuffs was tight 22 from point one. I told them numerous, numerous 23 numerous, numerous times. RPD had it out for me, man. 24 Q. Who did you tell the cuffs were tight? 25 A. Whoever the white chick was that was there,</p>	<p style="text-align: right;">172</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 Q. What did you say to them and what did they 3 say to you? 4 A. It was numerous things. So RPD wouldn't let 5 me look at newspapers. I couldn't talk on the phone. 6 I couldn't talk to nobody outside. I couldn't look at 7 TV. So it was like I was in like solitary confinement 8 and the only people that was around me was RPD. So by 9 the time the sheriffs got there and some of them -- 10 some of them was familiar with whatever the hell that 11 police put out to the media. So what I don't know 12 because I wasn't able to look at TV or anything else 13 and they updated me on what was supposedly the story 14 outside of my hospital room. 15 Q. They verbally told you this? 16 A. They verbally told me. Some of them showed 17 me, and eventually I was able to look at a TV. 18 Once I got turned over to -- once Castro turned me 19 over to the sheriffs I was able to look at TV. But by 20 the time I got to look at TV for some reason they made 21 sure that that wasn't in the media no more. 22 Q. You mean that when you were able to look at 23 the TV there was no reports about your -- 24 A. Yeah. So what I found out was the story that 25 you all came up with and what was going on in the news.</p>

<p style="text-align: right;">173</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. I'm sorry. Mr. Simmons, when you say "you 3 all," who do you mean? 4 A. The police, whoever employ the police, and 5 whoever represent the police when they talk on the 6 camera in front of the cameras. 7 Q. Are you talking about the police or are you 8 talking about RPD? 9 A. You represent RPD right now, correct? 10 Q. I'm an attorney. So when you say -- 11 A. I'm talking about whoever was behind it, 12 whoever talked to in the police union, city attorneys, 13 the commanders, the chief, whoever it was, that's on 14 y'all force right now or on y'all side, whoever you 15 representing. 16 I was not able to see those stories because I was 17 not able to talk to nobody. I didn't get a one phone 18 call. I wasn't even arrested at first. I couldn't 19 find out no information. The sheriffs updated me on 20 whatever the story was supposed to be. So the 21 clippings that I wasn't able to see that wasn't on 22 RNews already or Channel 10, 8 or 13, some of them was 23 friendly enough to pull it up and show me what happened 24 the night I actually got shot from what the chief said 25 to the mayor said, to Mazio.</p>	<p style="text-align: right;">175</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 in that bed, went to the bathroom tried to walk, 3 couldn't walk. So basically I was just like hopping. 4 That's it. 5 They did a sonogram on my foot and my leg, but that 6 wasn't like a procedure. They was trying to look at my 7 nerves. They was trying to look at my nerves or -- I 8 don't know what they was doing, but that's how they 9 came up with the conclusion that my leg wasn't right. 10 Like from my butt cheek -- from the top of my butt 11 cheek all the way to the sole of my feet something was 12 not right. 13 So when RPD was there and I complained about it 14 nothing got done, nothing got done. 15 When the sheriffs came finally they got a nurse to 16 come in there who was curious enough to go with it and 17 I guess she talked to some people called the pain team 18 which was a bunch of doctors and they carted me off to 19 some prenatal area where they did like a sonogram or 20 whatever they do for the babies to see the sex or 21 what's going on inside and they did that on my foot and 22 my leg to try to determine why my leg was killing me. 23 Q. You had mentioned that when RPD was there you 24 weren't able to get this done; is that correct? 25 A. Absolutely not.</p>
<p style="text-align: right;">174</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Do you understand me? 3 Q. Who is Mazio? 4 A. I don't know who Mazio is. 5 Q. You just mentioned him. 6 A. I mean you know who he is. He's the police 7 union dude. Ain't he suing y'all too? 8 Q. Not that I know. 9 You said the sheriff pulled this up for you, 10 meaning pulled it up on a computer or his phone? 11 A. I don't recall how he did it. He showed me. 12 However he did it, he showed me. 13 Q. But it wasn't on the TV? 14 A. It could have been on the TV or computer or 15 phone. I don't remember. I don't recall any computers 16 in the room except for what the doctors was using. 17 Q. Do you recall the names of the sheriff's 18 officers that were attending to you at the hospital? 19 A. I don't. 20 Q. After that did you receive any other 21 treatment at the hospital that you recall? 22 A. I don't recall. If you want to call them 23 giving me a walker and letting me take five minutes to 24 walk around the room or the floor where I was at still 25 under supervision, that's it. Other than that I stayed</p>	<p style="text-align: right;">176</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Do you believe that RPD was -- 3 A. Absolutely. 4 Q. Let me finish my question. Do you believe 5 that RPD was telling the doctors not to do 6 procedures -- 7 A. Absolutely. They was pulling the strings. 8 They was telling the nurses. Some nurses didn't 9 listen. There was a nurse named Jessica there and I 10 kept calling her Taylor. I was joking with her and I 11 kept calling her Taylor Swift and she wouldn't go with 12 the police lead to not give me treatment or to check on 13 me or whatever they was trying to do when they kept 14 trying talk to the doctors outside my room closing the 15 door. 16 Q. You said that RPD was telling nurses. Did 17 you hear them tell nurses not to do treatment? 18 A. I can't say per se I heard them say, "Oh, 19 don't treat him," but the one nurse, I can't remember 20 her name. I'm pretty sure you can find the transcripts 21 on trial or the hearings that we had. 22 She was like they're main culprit, like whatever 23 they was telling her to do, like at first I asked for 24 water. At first I couldn't drink water for whatever 25 the reasons.</p>

<p style="text-align: right;">177</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Like even when the police told me shut up, stop 3 asking questions as I'm trying to ask her questions. 4 She was going with the police too, like didn't the 5 police tell you to shut up? Like you the nurse. That 6 ain't got nothing to do -- like police telling me to 7 shut up at the time before I even get the tube out of 8 my throat, I'm writing notes. I'm not really even 9 talking. I got to shut up and I'm not even talking. 10 So, yeah, they was definitely -- they definitely had 11 influence inside that hospital.</p> <p>12 Q. You mentioned that they had given 13 instructions not to treat you to the nurses.</p> <p>14 A. I didn't mention that. I just said I don't 15 know what they said per se. But they was -- whatever 16 was going on with the conversations with some of the 17 nurses, some of the nurses talked to them and then they 18 didn't treat me the same no more. They come in and 19 they treat me like I'm the one that was already 20 convicted. Like they just knew like they was treating 21 me like I'm like a son of Bin Laden or somebody. Like 22 it was already like I'm begging for pain medicine. I 23 need more medicine. I'm uncomfortable. This is 24 hurting. This is stabbing. This is that and it's 25 like, well, we'll be back in a minute and never come</p>	<p style="text-align: right;">179</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 is. That weighs a lot for people who don't know me, 3 who don't know my heart, that weighs a lot. So 4 everybody on that side. That's how I feel.</p> <p>5 Q. What side are you talking about?</p> <p>6 A. Y'all, the people who question me, the people 7 who keep pointing the finger and trying to put a gun in 8 my hand like we know what these questions is about. So 9 that's how I feel.</p> <p>10 Q. During the time when Castro arrived in your 11 room to the time when you were released from the hospital did your pain level decrease?</p> <p>13 A. No. It was all a rush. I wasn't even 14 supposed to -- when the nurses found out that I was 15 leaving the hospital they was telling me like you're 16 not even supposed to be leaving yet. Like I'm not 17 ready to go yet. It was like a rush getting him out. 18 I couldn't even walk. They pulled the tubes out and 19 like four hours later -- like four to eight hours later 20 on I'm on the way to Monroe County Jail.</p> <p>21 Q. How long between the time that Castro came to 22 your room and you were discharged from the hospital?</p> <p>23 A. Days.</p> <p>24 Q. Days? Do you recall the day that you were 25 released from the hospital?</p>
<p style="text-align: right;">178</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 back and go out and talk to the police and like you can 3 tell they talking to each other and they looking right 4 at me.</p> <p>5 Like I'm not dumb. Just because I didn't hear, I 6 can put two and two together.</p> <p>7 Q. You believe you were denied pain medicine?</p> <p>8 A. I believe I was denied pain medicine, calls, 9 lawyers, everything that they could say no to. That's 10 what I was denied.</p> <p>11 You got to look at it. Y'all expecting me to die. 12 I'm not supposed to be here to tell this story. That 13 was the hope. That was the goal. That was the plan. 14 That's why when I didn't die nothing was on the news no 15 more.</p> <p>16 Q. Whose plan was it for you to die?</p> <p>17 A. Whoever tried to send me to jail for the rest 18 of my life, whoever tried to kill me in my back yard 19 and whoever tried to make me look like a criminal now 20 because I want some type of justice for being shot and 21 living with bullets and wasting a year and a half of my 22 life, losing family ties.</p> <p>23 Now I'm like I'm somebody else's society. Every 24 time you Google Silvon Simmons the first thing that 25 shows up is Silvon Simmons and RPD. So you know how it</p>	<p style="text-align: right;">180</p> <p>1 S. Simmons - Examination by Mr. Campolieto</p> <p>2 A. The 11th or the 12th. I got it written down 3 somewhere. I could look and double check. I know the 4 answer by the next time you ask me these questions.</p> <p>5 Q. That's fine. That's not necessary.</p> <p>6 Did speak to your attorney in the hospital after 7 Castro had read you your charges? Did you have a 8 chance to meet with your attorney?</p> <p>9 A. Yes.</p> <p>10 Q. How many times?</p> <p>11 A. A attorney came right before Castro came to 12 tell me that Castro was coming so I could get these 13 charges read. Then after that I was switched to two 14 different attorneys, different from the one who 15 actually came and Castro --</p> <p>16 Q. Do you know their names?</p> <p>17 A. Which one, the original attorney or Lizabeth 18 Riley and Katie Higgins --</p> <p>19 Q. Okay. That's when --</p> <p>20 A. -- actually was in court with us.</p> <p>21 Q. The two names that you just mentioned, Liz 22 Riley and Katie Higgins, you said, those were the 23 attorneys you met with after Castro arrived?</p> <p>24 A. Yes.</p> <p>25 Q. How many times did you meet with them in the</p>

<p style="text-align: right;">181</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 hospital?</p> <p>3 A. I don't recall.</p> <p>4 Q. More than once?</p> <p>5 A. Yes.</p> <p>6 Q. But you believe that you were denied access 7 to them at some point during your stay in the hospital?</p> <p>8 A. Yes.</p> <p>9 Q. That would be after RPD transferred your 10 custody over to the sheriff's office?</p> <p>11 A. So we must have skipped over a whole bunch of 12 stuff just now. So after they took the tube out of my 13 throat I did get a chance to talk to two of your 14 investigators like two hours later after they snatched 15 the tube out of my throat.</p> <p>16 Q. This is before Castro arrived?</p> <p>17 A. This is before Castro arrived. This is like 18 as soon as – this got to be like the Sunday or the 19 Monday after I woke up and they took them tubes out of 20 my throat. Two investigators showed up asap.</p> <p>21 Q. Did you ask for an attorney?</p> <p>22 A. Of course I asked for attorney.</p> <p>23 Q. Did they get you an attorney?</p> <p>24 A. No.</p> <p>25 Q. So you believe that they spoke to you without</p>	<p style="text-align: right;">183</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 telling them that you don't recall if you had a gun on 3 April 1st, 2016?</p> <p>4 MR. BURKWIT: Object to form.</p> <p>5 THE WITNESS: I don't recall what I told 6 them. I could have. I could not have. I don't recall 7 none of that. I don't recall that conversation. I was 8 high off pain medicine. I was in excruciating pain. I 9 do know asking for my parents, and a lawyer once they 10 started kicking this gun stuff.</p> <p>11 BY MR. CAMPOLIETO:</p> <p>12 Q. Before Castro arrived did you have a chance 13 to meet with an attorney?</p> <p>14 A. Five minutes before Castro came in my room an 15 attorney came in my room. I did not – I didn't call 16 that attorney. My parents didn't call that attorney. 17 Whatever happened in the process this attorney just 18 showed up.</p> <p>19 Q. When you say you believe you were denied 20 access to an attorney that would be before the Monroe 21 County Sheriffs took custody of you, is that what 22 you're saying?</p> <p>23 A. Yeah. I asked for an attorney numerous times 24 during the whole thing, during the whole thing before 25 Castro came in and Monroe County Sheriffs showed up I</p>
<p style="text-align: right;">182</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 an attorney present?</p> <p>3 A. It ain't no believe. They did.</p> <p>4 Q. I'm sorry. What did you say?</p> <p>5 A. Yes, sir, they did speak to me without an 6 attorney.</p> <p>7 Q. And you asked for an attorney?</p> <p>8 A. I asked for an attorney. I asked for an 9 appearance. I asked for a phone call. I was denied 10 everything. Everything.</p> <p>11 Q. Do you recall telling those attorneys that 12 you didn't recall if you had a gun on April 1st, 2016?</p> <p>13 MR. BURKWIT: I'm going to object as to form 14 on that.</p> <p>15 THE WITNESS: I don't recall telling my 16 attorneys anything.</p> <p>17 BY MR. CAMPOLIETO:</p> <p>18 Q. Let me withdraw the question.</p> <p>19 Do you recall telling the investigators that you 20 don't recall if you had a gun?</p> <p>21 MR. BURKWIT: Object to form.</p> <p>22 THE WITNESS: Yeah, your investigators was 23 trying to like lead me into a story.</p> <p>24 BY MR. CAMPOLIETO:</p> <p>25 Q. Let me ask you the question. Do you recall</p>	<p style="text-align: right;">184</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 requested an attorney as soon as your officers started 3 saying assault charges and jail time. I was not 4 supposed to have assault charges or jail time or be 5 handcuffed to that chair at all. Because I'm the only 6 one that got shot.</p> <p>7 Q. Did there come a time when you were 8 discharged from the hospital?</p> <p>9 A. Yes.</p> <p>10 Q. Where were you taken after you were 11 discharged?</p> <p>12 A. I was taken to the Monroe County Jail.</p> <p>13 Q. Who were you taken there by?</p> <p>14 A. Monroe County Sheriffs.</p> <p>15 Q. Did they do a booking? Did they book you 16 into the jail?</p> <p>17 A. Yes.</p> <p>18 Q. How did you get to the jail prior to being 19 booked?</p> <p>20 A. A Monroe County Sheriff SUV.</p> <p>21 Q. When you arrived at the jail were you 22 immediately sent to the booking process or did you go 23 to the jail hospital or jail medical facility?</p> <p>24 A. I don't recall how all of that went. I came 25 in there and I'm pretty sure they took like some prints</p>

<p style="text-align: right;">185</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 or something. They let me make a phone call and 3 immediately after that phone call they put me like in a 4 suicide watch cell butt naked with like a green vest 5 suit on. They said they ran out of covers, ran out of 6 mats. It was crazy.</p> <p>7 Q. Who did you make a phone call to?</p> <p>8 A. I called my kids mother. I want to say I 9 tried to call my parents. After Monroe County Sheriffs 10 came I was able to see my parents and that's about it. 11 I didn't have too many people to call because they 12 don't let you call people like that. They won't let 13 you make calls. They only let you get one call. I 14 think the grace of God they let me have a couple of 15 calls, but that was cut short once everything got 16 spread around while I was there.</p> <p>17 Q. Now, you mentioned that you were put into a 18 special mental health cell when you arrived at the 19 Monroe County Jail. How long did you stay in that 20 cell?</p> <p>21 A. I want to say a day and a half. Overnight 22 and half the next day.</p> <p>23 Q. Were you --</p> <p>24 A. Maybe it was two days.</p> <p>25 Q. Were you treated at all for your condition?</p>	<p style="text-align: right;">187</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 had a tablet, had a badge, like not a police badge, but 3 like a plastic badge.</p> <p>4 Q. She was a nurse or doctor?</p> <p>5 A. I assume.</p> <p>6 Q. Were you eventually able to get your medical 7 script filled at the Monroe County Jail?</p> <p>8 A. Eventually, yes.</p> <p>9 Q. How long?</p> <p>10 A. A couple of days after that I want to say.</p> <p>11 Q. Do you recall what the medicine that you were 12 receiving was?</p> <p>13 A. Holy shit, they gave me a bunch of medicine 14 that I had no business even taking. I was supposed to 15 be on like pain killers for the pain. So it went from 16 whatever they had me on in the hospital to a constant 17 lesser dosage or a lesser medicine and eventually 18 within a couple of weeks I'm on like Tylenol that's not 19 even Tylenol because they can't use real Tylenol and 20 they couldn't use -- I was restricted a lot.</p> <p>21 I went through a lot of pain because they played a 22 lot of games with the medicine down there. Because at 23 whoever request that requested to the sheriffs that 24 requested to them. So the treatment sucked down there. 25 I was in pain the whole time. I was in a cement cell</p>
<p style="text-align: right;">186</p> <p>1 S. Simmons - Examination by Mr. Campolioto</p> <p>2 A. No. They wasn't treating me. The health 3 care system inside the jail sucked. They had doctors, 4 they didn't have doctors. It was months they didn't 5 have doctors. I guess -- no, I was not treated. 6 Because when I got there I was supposed to be getting 7 some medicine and before I left the hospital I asked 8 the doctors about -- I asked the nurses and the doctors 9 about the medicines and the doctor said the script was 10 transferred to Monroe County. When I got to Monroe 11 County they couldn't find a script for none of my meds. 12 So I didn't get no medicine. They couldn't find 13 nothing for me. They didn't want to give me no 14 medicine because some lady said that I wanted to kill 15 myself. That's why they put me in the suicide room 16 because she said I was depressed. Because in this type 17 of situation that's how people feel. She tried to make 18 me believe that I had no hope.</p> <p>19 Q. Who was the lady that --</p> <p>20 A. You would have to look that up through Monroe 21 County Jail administration staff at the time.</p> <p>22 Q. Was it a nurse?</p> <p>23 A. I don't know her name. It was some type of 24 doctor, some type of lady. I don't know who she was. 25 I just know she was able to walk around the jail free,</p>	<p style="text-align: right;">188</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 with glass doors so everybody could look at me buck 3 naked with a vest on. It was humiliating. The whole 4 Monroe County staff at first was just terrible.</p> <p>5 Q. So you believe that the Monroe County staff 6 changed your medicine?</p> <p>7 A. I didn't say they changed my medicine did I? 8 I don't recall saying that. Did I say they changed my 9 medicine?</p> <p>10 Q. Yes. You said you went from your regular 11 medicine at the hospital to a lesser dosage --</p> <p>12 A. Oh, yeah. For that fact, yes.</p> <p>13 Q. Which doctor -- did you see a doctor at the 14 Monroe County Jail?</p> <p>15 A. I had to see between five doctors because 16 Monroe County Jail cannot keep doctors. The doctors I 17 was seeing was complaining about the service whatever 18 they had access to and they was trying to do their best 19 to explain why I couldn't get the pain medicine that I 20 needed.</p> <p>21 One doctor sat and told me we can't get this. Then 22 he was like, but you don't need it anyway because I 23 don't want to see you hooked on these drugs. So it's 24 good you get weaned off these drugs. I'm like I'm 25 dying here and I'm not getting pain -- a lot of the</p>

<p style="text-align: right;">189</p> <p>S. Simmons - Examination by Mr. Campolieto</p> <p>1 medicines -- so when I realize I'm taking like eight 2 different medicines I'm asking "What's this medicine, 3 what's this medicine, and this medicine," and they said 4 trazodone, troxodone, some other done. What does that 5 do? They giving me like depression medicine, suicidal 6 medicine. They giving me a cocktail of medicines that 7 I don't even need except for the medicines and the pain 8 medicines that I actually need.</p> <p>9 Q. When you got to the jail you were put into 10 the mental health cell you mentioned and you stayed 11 there you said for a day and a half. After that cell 12 where did you go?</p> <p>13 A. They took me from that cell and walked me 14 five feet across from the cell to another cell that's 15 like a regular jail cell, but it's still like a suicide 16 medical cell. They call it a medical ward. It's the 17 same as that cell except for this time they found a mat 18 for me. I'm behind glass with bars and I got a -- I 19 had a toilet in that in the mental health thing too.</p> <p>20 Q. Were you by yourself in that cell also?</p> <p>21 A. Yes.</p> <p>22 Q. How long did you stay in that cell?</p> <p>23 A. I want to say two, three months.</p> <p>24 Q. Do you recall an incident on May 16th between</p>	<p style="text-align: right;">191</p> <p>S. Simmons - Examination by Mr. Campolieto</p> <p>1 Q. No. I want to ask you on May 18th do you 2 recall being involved in a fight with an individual 3 named Cyrus Phelps --</p> <p>4 A. I don't remember no names.</p> <p>5 MR. BURKWIT: Object to form.</p> <p>6 THE WITNESS: I don't remember nobody name in 7 jail and I don't remember the dates.</p> <p>8 This is how jail works. If there's twelve of 9 us in a pit it might not be twelve of us in that same 10 pit at the end of the week. Some people go upstate. 11 Some people get released. Some people get moved. 12 The time that I was down there I met like 13 five hundred to a thousand people coming and going. So 14 I don't remember names.</p> <p>15 BY MR. CAMPOLIETO:</p> <p>16 Q. Okay. Do you remember being in a fight while 17 you were at the mental health unit?</p> <p>18 MR. BURKWIT: Object as to form.</p> <p>19 THE WITNESS: No. I don't remember being in 20 no fight. It was no way possible to get in a fight 21 while I was in that unit. I didn't get into a fight 22 until they moved me into like the main frame with no 23 crutches, no wheelchair, no cane, no nothing. Like 24 they shot me up there. I still couldn't even walk. I</p>
<p style="text-align: right;">190</p> <p>S. Simmons - Examination by Mr. Campolieto</p> <p>1 you and an individual named Byron Johnson?</p> <p>2 MR. BURKWIT: Object as to form.</p> <p>3 THE WITNESS: I don't remember everybody 4 name, but refresh my memory.</p> <p>5 BY MR. CAMPOLIETO:</p> <p>6 Q. Do you recall getting into a fight with an 7 individual named Byron Johnson?</p> <p>8 A. I got in fights with --</p> <p>9 MR. BURKWIT: Object to form.</p> <p>10 THE WITNESS: It was going to be fights at 11 the Monroe County Jail with me at the disadvantage that 12 I had. I remember getting into some fights.</p> <p>13 BY MR. CAMPOLIETO:</p> <p>14 Q. Now, when you were in this medical cell, you 15 said you were in there for three months, were you able 16 to leave the cell at any time during the day?</p> <p>17 A. I was able to leave the cell and walk around 18 the area of that cell for an hour which consisted of 19 within that hour I could either take a shower, or I 20 could make a phone call. And my hour was never an 21 hour. My hour was always thirty minutes to forty-five 22 minutes with an excuse why it wasn't an hour.</p> <p>23 Are we ever going to ask about the shooting and why 24 your officer shot me in the back three times?</p> <p>25</p>	<p style="text-align: right;">192</p> <p>S. Simmons - Examination by Mr. Campolieto</p> <p>1 went through hell down there. You know what I'm 2 saying? I went through hell.</p> <p>3 BY MR. CAMPOLIETO:</p> <p>4 Q. When you were in the mental health unit did 5 you have regular meetings with doctors?</p> <p>6 A. No.</p> <p>7 Q. How often would you meet with medical 8 personnel?</p> <p>9 A. Every time I'm in pain I beg and beg and beg 10 to see the doctor and talk to the doctor.</p> <p>11 Before I left Strong they guarantee me that I was 12 going to be able to take outside visits from the jail 13 and come and get checked up on and get x-rays and do 14 this, do things to check on my wellbeing.</p> <p>15 Like those deteriorated. That never happened. I 16 left two times, got an x-ray. The last x-ray -- the 17 last time I did the x-ray I'm supposed to come back 18 because my pelvis is still shattered. They don't let 19 me go back on the outside visit. I never go back to 20 that visit. They never --</p> <p>21 Q. Hang on a second. Let me ask you this, you 22 mentioned you left the jail two times to go back to the 23 hospital; is that correct?</p> <p>24 A. Yes.</p> <p>25</p>

<p style="text-align: right;">193</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Do you recall when those occurred? 3 A. I don't know the dates, man. It was early 4 after I got in there. So one time was while I was 5 still in rec antics - that's what they called it - rec 6 antics. And one time was after they moved me to the 7 main frame floors. 8 Q. Okay. 9 A. But I requested numerous times to see a 10 doctor. Monroe County didn't have no doctors. This is 11 what I'm trying to tell you. Like it was impossible to 12 see a doctor because they didn't have no doctors. The 13 doctors either quit or the doctors didn't show up or 14 the doctors wasn't doctors. You had nurses sitting in 15 the doctor room who wasn't qualified to do nothing. 16 They did everything they was supposed to do to get me 17 to the outside treatment they couldn't do because they 18 lose this script, they lose this transaction. They 19 lose like -- 20 Q. When you were in the mental health unit and 21 you were transferred back to general population - for 22 lack of a better term - how long did you spend in the 23 mental health unit, you said three months? 24 A. Two to three months. They moved me fast. 25 So --</p>	<p style="text-align: right;">195</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. For the fourth time I do not know. I don't 3 know none of these people names. I don't know. I 4 didn't know them before and I still don't know. I 5 don't know. I'm not going to know the next time you 6 ask me somebody name. I just don't know, man. I don't 7 know. 8 Q. How many times did you get into a fight? 9 A. I don't recall. 10 Q. More than once? 11 A. Yes. 12 Q. Were you disciplined for any of those fights? 13 A. No. 14 Q. While you were in jail were you disciplined 15 by the Monroe County Jail officers? 16 A. I was disciplined from the day I walked in 17 there by the Monroe County Jail officers. 18 Q. Can you explain that? 19 A. For me not getting the meds that I needed to 20 get, for me not getting phone calls, for me getting -- 21 I don't get my whole hour of recreation that I'm 22 supposed to legally get, from me getting told that my 23 visitors didn't come to the visits who actually came to 24 the visits, from me not being able to go to a safer 25 unit, from me not being able to -- they put me in</p>
<p style="text-align: right;">194</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Let me ask you, when you got moved were you 3 moved into a single cell or did you have a roommate? 4 A. I had a single little cell in the worst part 5 of the jail that they could put me in. 6 Q. Is that the only cell that you were in during 7 your stay at the jail besides the mental health unit? 8 A. Yeah, that was it. I mean like within that 9 little hallway of the unit that I was in the same unit 10 when they let me out of rec antics they called it. 11 They put me two weeks high. They kept me in there from 12 the day they moved me there to the day I walked out of 13 that jail. 14 I did move cells because I started at the end and I 15 got closer to what they call the TV cell that was 16 closer to the TV so you could see. That was because as 17 stuff was starting to progress as I was getting -- 18 that's because the guards let me get closer to that TV, 19 you know what I'm saying? But I was in the same place 20 from start to finish. 21 Q. Now, you mentioned that you didn't get into 22 any fights while you were in the mental health unit, 23 but you did when you were in general population. 24 A. Yes. 25 Q. Who did you get in a fight with?</p>	<p style="text-align: right;">196</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 chains, shackles, cuffs, and I couldn't even walk. 3 Like the whole process was bad because at first 4 when I came in the first group and the first bunch of 5 deputy sheriffs was just straight up, we the blue team, 6 because we the police. Like they said slick stuff. 7 They let me know that it was going to be hell for me. 8 Do you hear what I'm saying? 9 Q. I'll paraphrase it I guess. So what you're 10 saying is you believe that the Monroe County Sheriffs 11 Deputies in the jail were punishing you? 12 A. Yes, for everything. I didn't get my 13 commissary. My parents to tell me that I got money in 14 my commissary thing. They didn't tell me. Oh, no, 15 that's just soap. You can't eat. I'm not in there -- 16 people get sent to rec antics for fights and for other 17 stuff. Like I wasn't in there for that. I was in 18 there because that was supposed to be the safest unit 19 for me with my injuries. 20 Q. Did there come a time when you stopped taking 21 pain medication while you were in the jail? 22 A. No. That wasn't pain medication that they 23 was giving me that I stopped taking. They was giving 24 me mental medication that made me feel like I don't 25 even care about. They was giving me stuff that don't</p>

<p style="text-align: right;">197</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 exist in the outside world. They was giving me 3 medicines that they couldn't give me explanations why 4 I'm taking this medicine or what this medicine do, or 5 what this medicine do. They had me on stuff that had 6 nothing to do with what I was going through. Like I'm 7 still feeling the same way. They got me feeling 8 like --</p> <p>9 Q. Mr. Simmons. Mr. Simmons, you're not 10 answering the questions I'm asking. Did you stop 11 taking --</p> <p>12 MR. BURKWIT: John, let him answer. 13 MR. CAMPOLIETO: I'm sorry, Charlie? 14 MR. BURKWIT: Let him answer.</p> <p>15 THE WITNESS: I stopped taking the medicines 16 that I was not supposed to take. The Lyrica I stopped 17 taking because it was making me gain weight and wasn't 18 doing nothing. I still got the same pain. None of the 19 pain medicine work. All this nerve medicine they came 20 up with, I took two type of nerve medicines and none of 21 it worked. None of it worked. I'm still in pain to 22 this day. None of it worked. Even when I was in the 23 hospital I got like nerve pain, dog. I got real pain. 24 Even when I was in the hospital and they giving me 25 Vicodin or whatever they giving me, I still got a</p>	<p style="text-align: right;">199</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 jail in 2018 you didn't see a doctor? 3 A. No, I did not. 4 Q. Is it true -- have you seen a doctor yet? 5 A. I did see a doctor for a consultation. I do 6 got a doctor that recommend I see these people and see 7 these people and see these people. 8 Q. Okay. After you were released from jail why 9 didn't you see a doctor for your pain? 10 A. Because you just shot away -- because your 11 officers shot me and threw me in jail. I lost ten 12 years of my life. Like I've got to come back. I lived 13 this type of lifestyle. I went to jail now I'm living 14 a bottom lifestyle. How else am I -- what was I 15 supposed to do? 16 I got kids. How I'm supposed to feed my kids? How 17 am I supposed to move around -- I lost a lot of ties. 18 There's a lot of stuff I got to start running, doing, 19 to get my life back to regular. 20 I can't even move around down here because the gang 21 that shot me is riding up and down the street. RPD is 22 all over Rochester. 23 Like I wish you was in my shoes so you could feel 24 how I feel so you wouldn't be asking me these questions 25 that -- it's like you trying to bother me. You're not</p>
<p style="text-align: right;">198</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 different pain. That was good for like the flesh wound 3 pain. I got inside pain. I got a different pain. 4 BY MR. CAMPOLIETO: 5 Q. I think you said during the last deposition 6 we had that you didn't see a doctor after you were 7 released from jail? 8 MR. BURKWIT: Object as to form. 9 THE WITNESS: What was the point? I had 10 medicine that I was taking at Strong that just saved my 11 life after your guys shot me and none of that pain 12 medicine worked. The whole time I'm hitting this 13 button in the hospital none of that pain medicine even 14 worked. Like I was in pain the whole time -- even in 15 the most comfort that they tried to comfort me in I was 16 still in pain. 17 BY MR. CAMPOLIETO: 18 Q. But what I'm asking -- 19 A. Listen, when I went to jail I was not allowed 20 physical therapy. I wasn't allowed help from the 21 start. It was just like you in here we -- since you 22 didn't die when we shot you, you didn't die in the 23 hospital, die in jail. Like that's how they was 24 treating me. 25 Q. Mr. Simmons, after you were released from</p>	<p style="text-align: right;">200</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 asking me nothing that got to do with nothing. 3 Like I got a agenda of life that I want to live, 4 man. I got a bunch of stuff -- 5 Q. Mr. Simmons -- 6 A. -- suffered the whole time. I -- 7 Q. -- what life did you want to live that you 8 can't live right now? 9 A. A regular life. I don't want to be looking 10 over my shoulders all the time. I don't want to be in 11 fear in that when one of his home boys -- one of 12 Ferrigno home boys, Giancursio, whoever else was in 13 this police thing or on the scene or feel some type of 14 way that whoever was in the crowd that threatened me 15 after the judge reversed my charges. I don't want to 16 see them. I still got to live with that paranoia that 17 they still out to get me and they told me they are out 18 to get me. Watch my back. You lucky. It ain't going 19 to go like that next time. You should have finished 20 him off when you had the chance. 21 The intimidation, they intimidate regular people 22 that they didn't shoot. Like I can't even move around 23 in the street. I can't -- 24 Q. Why can't you move around in the street? 25 A. You got a whole law degree, man, and I just</p>

<p style="text-align: right;">201</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 explained it to you, man. Because you got police. 3 Nobody got fired or disciplined or nothing. The same 4 people that went with the lies and the stories is still 5 out driving these cars, pulling people over waiting to 6 catch Silvon Simmons.</p> <p>7 Q. Mr. Simmons, when you were released from jail 8 after the legal proceedings where did you move to?</p> <p>9 A. Like we said in the last depositions, Greece. 10 691 North Greece Road.</p> <p>11 Q. How long did you stay at that address?</p> <p>12 A. Five to six months.</p> <p>13 Q. After that where did you move to?</p> <p>14 A. I moved to my own apartment. So when I got 15 out of jail I needed to see my kids. I'm living with 16 somebody else. My kids can't -- I moved to my own 17 apartment.</p> <p>18 Q. What's the address?</p> <p>19 A. Hayward Avenue -- 316 Hayward Avenue.</p> <p>20 Q. That's where you still live today, right?</p> <p>21 A. Sure. Yes.</p> <p>22 Q. How soon after you were released from jail 23 did you go back to work?</p> <p>24 A. I wanted to go the next day as soon as I got 25 out of jail, man, but I was so scared to come to the</p>	<p style="text-align: right;">203</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 burnt the bridge. There was no reason for them to 3 say -- no. They know me. They know my heart. Do you 4 see what I'm saying? You don't know me or nothing 5 about me or my heart.</p> <p>6 Q. Did they tell you what you would be doing 7 when you returned to work?</p> <p>8 A. I don't recall all that. All I know is I 9 would have did mostly anything except for hopping in 10 and out of that truck and lifting heavy, heavy 11 equipment. If I had to sweep floors in order to get 12 where I needed to get and in order to get the 13 relationship back with my kids or wash dishes that's 14 what I would have did.</p> <p>15 What do these questions got to do with why your man 16 shot me in my back?</p> <p>17 Q. When you took the job back were you making -- 18 did you make more money than you did before you went to 19 jail?</p> <p>20 A. I came back at the same rate like I explained 21 the last time.</p> <p>22 Q. I don't think that that's what we discussed, 23 but you came back at the same rate?</p> <p>24 A. Came back at the same rate I left off on.</p> <p>25 Q. Have you gained an increase in salary since</p>
<p style="text-align: right;">202</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 city and my family was so scared for me to be in the 3 city because they just knew that RPD was going to see 4 me and light me up. They just knew that they was going 5 to plant something on me. They just knew -- my whole 6 life style is paranoid from me to my family to my 7 friends.</p> <p>8 Q. Mr. Simmons, how soon did you go back to 9 work?</p> <p>10 A. A month, a month and a half.</p> <p>11 Q. Okay. You said you were scared RPD was going 12 to plant something on you. Did they plant anything on 13 you after you were released from jail?</p> <p>14 A. Not this time. They did the first time. 15 That's why me and you are here right now and you 16 questioning me. That's why I did a year and a half in 17 jail.</p> <p>18 Q. Now, how did your return to work come about, 19 did you have a meeting with your supervisor or the 20 owners of the company?</p> <p>21 A. A phone call. I called. "You got a spot for 22 me?"</p> <p>23 Q. What did they say?</p> <p>24 A. I'm a hard worker, of course. I never did 25 them wrong. I mean I don't burn bridges. I never</p>	<p style="text-align: right;">204</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 that time?</p> <p>3 A. Yes.</p> <p>4 Q. Now, you mentioned that you got your 5 apartment after spending a few months at a relative's 6 house in Greece; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. The apartment is in the city of Rochester; is 9 that correct?</p> <p>10 A. Yes.</p> <p>11 Q. So even though you were scared to return to 12 the city of Rochester you did return to the city of 13 Rochester?</p> <p>14 A. You're damn right I did. And the reason why 15 I did is because my apartment, I can jump out of my 16 window and be at work. My apartment is connected to my 17 job. So I got cameras watching me go in, go out, 18 seeing me get harassed, not harassed. It's a safe 19 situation. I can go through the back door and be in my 20 job.</p> <p>21 That was the best situation for me. I got out of 22 their hair. I got my life back. I got my own sense of 23 being a man back. I got my own sense of balls back and 24 I'm safe. I know I'm safe here. I know my co-workers 25 ain't going to let y'all do nothing funny to me while</p>

<p style="text-align: right;">205</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 I'm here. If it would have been anywhere else but here 3 I'd probably still be in Greece where my family think 4 it's safe at. 5 Q. But you do feel safe at your work and you 6 feel confident that you can get to work? 7 A. Yes. I don't want to walk outside to get 8 there. I can just get to work. 9 Q. You mentioned cameras. What cameras are you 10 referring to? 11 A. I don't know, whoever got cameras outside in 12 the neighboring businesses and inside the businesses. 13 Q. You're confident and happy with those cameras 14 being there? 15 A. Yes. 16 Q. How did you get the apartment, did anybody 17 assist you in getting the apartment? 18 A. No, sir, man. I went to work. I earned my 19 money. I bust my ass to save -- I'm sorry. I bust my 20 butt to save my money and I got the apartment. 21 Q. What I'm asking you is not about money. I'm 22 asking you -- 23 A. You said "How did you get the apartment." 24 Q. I'm talking -- 25 A. I can't get the apartment for free. I have</p>	<p style="text-align: right;">207</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 being for rent? 3 A. Yes. 4 Q. But you don't know how you got it? 5 A. I don't recall right now. No, I don't recall 6 right now. 7 MR. BURKWIT: Can we move on to something 8 else, John? 9 THE WITNESS: Can we take a break? I got to 10 use the bathroom. 11 MR. CAMPOLIETO: Sure. 12 THE WITNESS: Mind if I go use the bathroom, 13 please? 14 MR. CAMPOLIETO: Take a ten minute break. 15 THE WITNESS: Thank you. Twelve thirty-six? 16 MR. CAMPOLIETO: Yes. 17 (Recess taken.) 18 BY MR. CAMPOLIETO: 19 Q. Mr. Simmons, since moving into your apartment 20 on Hayward were you able to do the upkeep of the 21 apartment by yourself? 22 A. I don't understand that question. 23 Q. Were you able to keep up with the chores of 24 having an apartment by yourself? 25 A. Yes, I guess.</p>
<p style="text-align: right;">206</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 to pay for it. 3 Q. Mr. Simmons, I'm not asking about how you 4 paid for the apartment. I'm asking about how did you 5 procure it. Did you find it in the want ads, did you 6 find it on the internet? How did you get the 7 apartment? 8 A. Well, the apartment is literally like right 9 next door to my job. If this my job, this is my 10 apartment. This chair right here, if I'm sitting at my 11 job, if I'm at ABR Wholesalers right now the apartment 12 is right here. 13 Q. Okay. How did you get it? How did you find 14 it? 15 A. Because it's right next door to my job. 16 Q. Did you see a For Rent sign? 17 A. No. I inquired through the owner of the 18 apartment. 19 Q. How did you find out that the owner was 20 renting an apartment? 21 A. I got the information and I asked him. 22 Q. Where did you get the information from? 23 A. I don't recall how I got the information, 24 man. I don't -- 25 Q. But you got information about the apartment</p>	<p style="text-align: right;">208</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Did you have to have anybody help you with 3 your chores? 4 A. What you mean, washing the dishes and taking 5 out the garbage? 6 Q. Yes, that kind of thing. 7 A. I got a whole right side. I'm not paralyzed. 8 My arm ain't paralyzed. My leg ain't paralyzed. 9 Q. So the answer is, no, you don't need help 10 with the chores or the upkeep of your apartment? 11 A. No. No. 12 Q. At your current job and your current position 13 -- strike that. 14 What is your current position at work? What's the 15 name of what you do? 16 A. I'm an inside salesman. 17 Q. Are you able to complete that job and the 18 tasks associated with that job without any assistance 19 or special accommodation? 20 A. Everybody help everybody here because this is 21 the type of company it is. Some things I'm going to 22 need help with. Some things they going to need help 23 with. 24 Q. What kinds of things do you need help with 25 with your job?</p>

<p style="text-align: right;">209</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. I don't know how to answer that right now. 3 Q. Does your medical condition affect your job 4 in any way? 5 A. Nothing is wrong with my brain. I can think. 6 So my brain work. So I'm inside sales. I talk on the 7 phone. I sell things. I explain how things that I 8 sell work. I explain how things that I sell work and 9 go together. 10 Q. Okay. Does your medical condition affect 11 your performance at your job? 12 A. No. 13 Q. I just wanted to go back to the house in 14 Greece that you moved into after jail. Who owns that 15 house? 16 A. Sharon Morelle Dilbert and Arthur Dilbert. 17 Q. Did you receive any assistance from them 18 after you were released from jail? 19 A. Of course, I -- yes. I lived there. 20 Q. You lived there. Did you pay rent? 21 A. When I started working I did contribute. I 22 used their shower. I slept in one of their rooms. 23 Yeah, I'm a grown man. I wasn't just a dead beat 24 there. I was never a dead beat. I was never a 25 criminal. I was never none of the stuff that you may</p>	<p style="text-align: right;">211</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 blue. That don't help neither. I'm not about to take 3 no real drugs because I don't need numb drugs. I don't 4 need drugs that's about to numb my brain and have me 5 not thinking clearly. 6 Q. You had mentioned before that you hadn't seen 7 a doctor after you were released from the Monroe County 8 Jail. However, we received documentation from your 9 attorney that you went to see a doctor at the 10 Integrative Pain and Wellness Center in Buffalo; is 11 that correct? 12 A. I told you that in the last deposition. 13 Q. Did you receive any prescription medicine 14 from that doctor? 15 A. No. 16 Q. Has there been any other doctor that you've 17 seen since going to that pain and wellness facility? 18 A. Not as of yet. 19 Q. Do you have something planned? 20 A. Maybe. 21 Q. What does that mean? 22 A. That mean maybe. Just what the answer is, 23 maybe. 24 Q. Maybe that you have a doctor that you plan to 25 go to see?</p>
<p style="text-align: right;">210</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 think I was. So I did try to pay my weight while I was 3 there for the short time that I was there. 4 Q. Did they give you any assistance with daily 5 living while you were there such as helping you with 6 your medical condition or anything of that nature? 7 A. I don't know how to answer that. I'm not 8 understanding your question. 9 Q. Did they help you with your daily chores, 10 cleaning, anything like that? 11 A. No. I could sweep. I could mop. I could 12 wash my own clothes. 13 Q. When you were released from jail into the 14 apartment in Greece were you on any medication? 15 A. No. And it was a house in Greece. They got 16 a whole house. It wasn't an apartment. 17 Q. So there was no medication that you were on 18 after you were released from the Monroe County Jail? 19 A. No. 20 Q. Do you take any medication or prescription 21 medication currently? 22 A. No. 23 Q. Have you taken any since you were released 24 from the Monroe County Jail? 25 A. I mean I got to take Tylenol every once in a</p>	<p style="text-align: right;">212</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. I got to find a primary care doctor that I 3 can trust and that can actually help me. So, yes, I 4 plan on going to see a doctor, but right now I got a 5 thousand options because I'm in like a network. So 6 I've got to choose a doctor out of my network. I got 7 health insurance so whatever I do I need to have it go 8 with my health insurance. 9 Q. Have you had health insurance -- how long 10 have you had health insurance? 11 A. I'm not sure. 12 Q. Did you have health insurance before you went 13 to jail? 14 A. Yes. 15 Q. Who did you have health insurance with? 16 A. Hang on a second. 17 Q. I don't need -- 18 A. I don't know how to answer that unless I 19 check my health insurance card. I'm not sure. Do you 20 want the answer? 21 Q. I want the answer of did you get health 22 insurance through your job. 23 A. Oh, yes. 24 Q. Then you regained health insurance through 25 your job after you were rehired; is that correct?</p>

<p style="text-align: right;">213</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 A. Yes. 3 Q. Okay. As of now you have no future 4 treatments planned, but you are looking for a doctor, 5 is that what you -- 6 A. Yes. I got recommendations I should see this 7 person, that person, and that person. It's a matter of 8 me actually going to see that person or if I can see a 9 better person that's close. 10 Q. Who did you get the recommendations from? 11 A. The doctor that you just named that I go and 12 see. 13 Q. So he gave you a few names of other doctors 14 that he believes you should go see; is that correct? 15 A. Yes. 16 Q. Is there anybody in your family or people 17 that you may have hired to do things for you that you 18 can't do due to your medical condition? 19 A. No. 20 Q. This is outside of the question I had 21 regarding the upkeep of your apartment, but is there 22 anything you can't do that you need somebody to help 23 you do in your life? 24 A. I can't pick up my kids no more. 25 Q. Okay. Let's stop there. Why can't you pick</p>	<p style="text-align: right;">215</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 forty-five three times. I can't do a lot of stuff. 3 Q. Now, when you say you can't run, did you run 4 before you were shot? 5 A. Yes. Yes. I used to play sports. I used to 6 ice skate. I used to swim. I used to do everything 7 that a regular person used to do with no problems 8 because they have bullets their body. I was able to do 9 a whole bunch of stuff. I can climb trees. I can help 10 people move from one house to the next and move 11 couches. I can do regular stuff. I can work on my own 12 vehicles. I can change gas tanks. It's certain stuff 13 that I just can't do. 14 Q. What is that certain stuff? 15 A. I just told you, mad examples of the stuff I 16 can't do, man. It's just a lot of stuff I can't do. I 17 can't name everything that I can't do because some 18 things I don't know I can't do yet until I try to do 19 them. 20 Q. So you don't work on vehicles anymore? 21 A. I can't do every job that needs to be done on 22 the vehicle. Things that I used to could do, like for 23 example, I just said gas tanks, I can't do that. 24 Transmissions, I can't do that. Like certain stuff 25 that requires you to do certain things I can't do.</p>
<p style="text-align: right;">214</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 up your kids? 3 A. I used to be strong. I'm not as strong as I 4 was. I mean just ask yourself if you was to get shot 5 three times like me do you still think you would be a 6 hundred percent? 7 Q. It's not about me, Mr. Simmons. 8 A. All right. I'm not a hundred percent right 9 now. So I can't do a hundred percent of the stuff I 10 was capable of doing before your officers shot me three 11 times, got a bullet in my pelvis and got me stuck in my 12 shirt. I can't -- 13 Q. Mr. Simmons, again -- 14 A. I don't know what I can't do until I try to 15 do it and I realize I can't do it. I can't run. I 16 can't play basketball. I can't play football. I can't 17 play tag with my kids, regular stuff. 18 If you notice I keep having to move different ways 19 in this chair. I can't sit down too long. Like 20 certain stuff start going numb. It's all type of stuff 21 that I got problems with. I can't pick up a like a big 22 box that got to press against my body because I got a 23 lump hanging out my body with a forty-five bullet 24 that's sticking out that's catching the inside of my 25 skin. What you think I can't do? I got hit with a</p>	<p style="text-align: right;">216</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 Certain ways of being under a truck or moving my arm 3 like I just can't do it. 4 Q. But as far as work goes you don't need any 5 assistance at work -- 6 A. This is what I do at work right here. You 7 call on the phone. I get you on the phone. I sell you 8 stuff and I type. You come sign some paperwork. I get 9 you what you need. It's over. 10 Q. Have you received any promotions at work 11 since you came back? 12 A. I'm still a regular employee. I wasn't 13 promoted. I'm a regular employee. I just switched 14 apartments. 15 Q. I understand you switched apartments. You're 16 now a salesman, but have you been promoted to any 17 higher level sales since you came back? 18 A. No, sir. 19 Q. Now, I know that you haven't been to a doctor 20 since you were released from prison, but all of your 21 information that you've had since you met with doctors 22 at the hospital at jail and now you've met with this 23 pain and wellness center, has anybody diagnosed you 24 with any permanent medical issues that you recall? 25 A. One of them told me I had a permanent medical</p>

<p style="text-align: right;">217</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 issue. A Monroe County jail doctors that came in -- 3 the five doctors that came and went told me that I had 4 permanent medical issues, but they would not send me 5 outside at the time that I needed them to while I was 6 going through the most pain in my life to try to check 7 on those medical issues. Because according to them I 8 was a prisoner. 9 Q. What did they tell you were the permanent 10 medical issues? 11 A. They had me walk and I guess somehow the way 12 I walk is going to be a chronic situation and because I 13 got the pelvis in my leg -- because I got the bullet in 14 my pelvis, my leg and my lower half is going to 15 continue to sometimes it goes numb and that's just 16 going to be a chronic problem that I'm going to have to 17 learn how to deal with. 18 They also told me that the Lyrica and the 19 gabapentin that they was giving me took six days to 20 work and it may not work because it's a trial medicine 21 that got approval. So none of that medicine worked. 22 It's supposed to be nerve medicine and it does not work 23 for me. 24 Q. What do you do differently since -- I mean 25 I'm talking in general terms and my question is in</p>	<p style="text-align: right;">219</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 time. He let him say all of the gangster stuff. That 3 is gangster what he said and he's a police officer. He 4 let him talk to me like a stone cold outlaw and didn't 5 tell him stop. This ain't the time. Please don't. He 6 didn't say nothing. 7 Q. What are you referring to, Mr. Simmons? 8 A. In the courtroom after -- 9 Q. In the courtroom. Okay. 10 A. In the courtroom after the judge left the 11 courtroom it was still over a hundred officers in that 12 courtroom. 13 Q. But -- 14 A. Ten of them -- 15 Q. But the chief of police is who I'm asking 16 about. Did he threaten you specifically? 17 A. Yes, he did threaten me. 18 Q. What did he say? 19 A. That's the point. He didn't say nothing. 20 The guy that just shot me just threatened me again in 21 court. I'm lucky. Watch your back next time. That's 22 a threat. 23 Q. I'm asking you about the chief of police. 24 MR. BURKWIT: John, let him explain what 25 happened. Let him explain what happened. Okay?</p>
<p style="text-align: right;">218</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 general terms. What do you do differently in your life 3 after the injury, the shooting? 4 A. Stay in the house as much as I can. If I do 5 leave I've got to have people with me just for witness 6 protection purposes. So when something don't go wrong 7 because I'm pretty sure they're going to try to make it 8 go wrong or they going to feel like they've got to pay 9 me back or whatever the hell they feel. Because I 10 heard them blatantly make threats. Channel 8 heard 11 them. D&C heard them. It's just like they already 12 said that they're waiting for me. They already said 13 they're looking for me. 14 Q. You keep saying "they." Do you have any 15 specific names of people that have threatened you? 16 A. Everybody from the chief of police all the 17 way down to Ferrigno who already shot me. He already 18 shot me. So we know his threats is clear. We know he 19 telling the truth. He can't wait to see me. 20 Q. The chief of police threatened you? 21 A. He didn't have to. He was standing right 22 next to Ferrigno while Ferrigno was making the threats 23 to me. So he didn't tell his man to stop. That's how 24 the gang is ran. That's how the gang is ran. He 25 condoned it. He didn't tell him to be quiet not one</p>	<p style="text-align: right;">220</p> <p>1 S. Simmons - Examination by Mr. Campolioto 2 BY MR. CAMPOLIETO: 3 Q. I need an explanation about the chief of 4 police. That's all I'm asking about. 5 A. I just told you. You not listening. This is 6 what I'm telling you. If you shoot me and now we in 7 court and I'm your boss and you just say, again, "You 8 lucky. Watch your back. Don't let me see you next 9 time. We should have finished you," and I'm right 10 here, and I don't stop you from doing that I must agree 11 with you. That is a threat. The head of the force who 12 don't do no discipline let his man threaten me right 13 then and there and didn't say nothing and looked at me 14 as if he felt the same way. That's a threat. You 15 didn't stop the threats. 16 Q. But he didn't say anything to you 17 specifically, correct? 18 A. He looked at me while his man was saying the 19 threats as if he felt that same way. He didn't 20 discipline his man. Like he condoned him shooting me. 21 His man told me watch out next time. So it's meaning 22 that it's coming back around the corner for me. They 23 still feel like they got to get me and the chief of 24 police didn't stop him, didn't tell him to be quiet or 25 nothing and that is recorded. That is a fact that I'm</p>

<p style="text-align: right;">221</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 telling you. That is a true fact. We got them in 3 court.</p> <p>4 Q. Mr. Simmons, do you have any doctor 5 restrictions on your employment?</p> <p>6 A. Repeat that.</p> <p>7 Q. Do you have any medical restrictions on your 8 employment or anything to do for your employment?</p> <p>9 A. For unemployment?</p> <p>10 Q. For your employment, your job. Do you have 11 any medical restrictions?</p> <p>12 A. I haven't seen a doctor for him to give me a 13 medical restriction. But the people I work for know 14 that I can't do the same thing that I used to do.</p> <p>15 Q. You don't do that for your sales job do you?</p> <p>16 A. Yeah. I don't drive a truck. I don't do new 17 home construction deliveries. I don't deliver the job 18 sites. I don't put stuff in people basement, garage, 19 no. I'm a hundred percent in house.</p> <p>20 Q. Prior to the shooting did you have any 21 previous injury to your pelvis, your stomach, or your 22 legs?</p> <p>23 A. No, sir.</p> <p>24 Q. Do you have any medical bills that are 25 unpaid, Mr. Simmons?</p>	<p style="text-align: right;">223</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 BY MR. CAMPOLIETO:</p> <p>3 Q. Do you recall these orders of protections 4 against you and I'm just going to mention the names 5 that I believe the orders of protection were ordered 6 against you. Joshua Yeomas, do you recall being issued 7 a restraining order against contact with Joshua Yeomas?</p> <p>8 MR. BURKWIT: Object as to form.</p> <p>9 BY MR. CAMPOLIETO:</p> <p>10 Q. You can answer, Mr. Simmons. Do you recall?</p> <p>11 A. Yes. I'm sorry about that. Yes.</p> <p>12 Q. Do you recall being issued a restraining 13 order against contact with Ashley Carey?</p> <p>14 MR. BURKWIT: Object as to form.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. CAMPOLIETO:</p> <p>17 Q. Is there anybody else that you recall being 18 restrained from having contact with regarding those two 19 incidents?</p> <p>20 A. I can't recall right now, man.</p> <p>21 Q. Okay. I'm going to put up on the screen -- I 22 know we left off at the last deposition with a picture. 23 I'm going to try to put that up there right now. Just 24 give me a second to get the pictures organized. I'm 25 sorry. I'm just looking for the previous exhibits.</p>
<p style="text-align: right;">222</p> <p>1 S. Simmons - Examination by Mr. Campolieto</p> <p>2 A. I don't know.</p> <p>3 Q. I'm sorry?</p> <p>4 A. I do not know.</p> <p>5 Q. Why do you not know?</p> <p>6 A. That's my answer. I don't know. I don't 7 know. If I knew I would have answered you. That's why 8 I said I don't know. I can't tell you what I don't 9 know.</p> <p>10 Q. Did you receive any medical bills from your 11 time in the hospital?</p> <p>12 A. I don't know. I didn't get -- when I was in 13 jail I didn't get a medical bill and I haven't seen one 14 since I got out.</p> <p>15 Q. After you were released from jail did you 16 incur any bills or medical expenses?</p> <p>17 A. Not that I know of.</p> <p>18 Q. We previously talked about a couple 19 incidences back in the prior deposition, one on August 20 13th, 2013 and one on July 3rd, 2015. Both of these 21 instances later involved you being issued an order of 22 protection -- not you being issued an order of 23 protection, but you being named in an order of 24 protection.</p> <p>25 MR. BURKWIT: Object as to form.</p>	<p style="text-align: right;">224</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Just hang tight for two seconds.</p> <p>3 You guys can see that, right?</p> <p>4 MR. BURKWIT: Yes.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. CAMPOLIETO:</p> <p>7 Q. Okay. Mr. Simmons, can you take a look at 8 this photograph that's been marked as Exhibit 8? It's 9 Bates stamped COR003892.</p> <p>10 A. Okay.</p> <p>11 Q. Do you recall seeing this photograph at the 12 last deposition?</p> <p>13 A. Yes.</p> <p>14 Q. What does the photograph represent if you 15 could tell us?</p> <p>16 A. A car in a driveway with a police line in 17 front of it.</p> <p>18 Q. Okay. Do you recall whose car that is?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall what night, does this represent 21 April 1st, 2016 how the car was parked when you 22 returned to 9 Immel Street after going to the store?</p> <p>23 A. According to these pictures, yes.</p> <p>24 Q. Do you believe that that car was moved after 25 you and Mr. Parker returned to the house at 9 Immel</p>

<p style="text-align: right;">225</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Street? 3 A. Yes, that is what I believe. 4 Q. How do you believe that the car was moved? 5 In what direction was it moved if you could tell us? 6 A. I believe it was -- this is what I believe. 7 I believe it was moved backwards further into the back 8 of the driveway. 9 Q. So you believe that it was -- when you 10 returned home it was actually farther up the driveway 11 towards the road? 12 A. I would think it was a little bit farther -- 13 I mean that's just me looking at this picture. I would 14 think that in order for him to get out of his car and 15 run in his house that he didn't have to jump in the 16 bushes and through the window. 17 Q. Okay. So if you look at the white arrow that 18 I'm using by the driver side you believe that it 19 wouldn't have been parked there because the bushes are 20 there and he would have had to have got out into the 21 bushes. Mr. Parker is who we're referring to. 22 A. That's just what I believe. That's my 23 belief. Y'all, are going to set it up however y'all 24 are going to set it up for everything not to go with 25 the way I think.</p>	<p style="text-align: right;">227</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. A car in a driveway. 3 Q. Do you recognize the car? 4 A. Yes. 5 Q. Is that the car that you and Detron Parker 6 were driving to the store? 7 A. Yes. 8 Q. Is this the reverse angle of the previous 9 exhibit that we just looked at? So you're looking at 10 the car from the back instead of the front? 11 A. Yes. 12 Q. Do you see the bushes next to the driver 13 side, those are the bushes you believe that the car is 14 closer to than it was when you pulled into the 15 driveway? 16 A. Yes, that's my belief. 17 Q. Okay. Do you see the car in the street? 18 A. No. 19 Q. But you believe that this car, the impala, 20 that we're looking at was closer to the street when you 21 backed into the driveway? 22 A. It was either closer to the street or more to 23 the right. That's just my belief. I'm just wondering 24 how I got shot, he hopped out, got trapped in the 25 bushes before he went into the house and nobody said</p>
<p style="text-align: right;">226</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Again, when you say "y'all" you're talking 3 about the Rochester Police Department? 4 A. And the person who questioned me which is 5 you. 6 Q. You believe I moved the car or set up the 7 car? 8 A. I don't believe you moved the car. 9 Q. Okay. So when you say "y'all" you're talking 10 about Rochester Police Department? 11 A. Well, you asked me a question. So you part 12 of y'all ain't you? You're representing Rochester 13 Police Department, right? 14 Q. In a sense. I'm not going to argue at this 15 point, but let's take a look at another picture. 16 MR. CAMPOLIETO: Would you mark this, please, 17 Simmons 9. 18 (Simmons Exhibit No. 9 - Photocopy Bates COR003900 - 19 marked for identification.) 20 BY MR. CAMPOLIETO: 21 Q. Mr. Simmons, do you see the photograph which 22 is marked Simmons Exhibit 9? 23 A. Yes. 24 Q. Can you tell me what that photograph 25 represents?</p>	<p style="text-align: right;">228</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 nothing to him. Because the driver that he thought I 3 was was in the back. So that don't make sense to me. 4 Q. So you were in the passenger seat here; is 5 that correct? You were in the passenger seat of this 6 impala? 7 A. Yes. 8 Q. When the car backed into the driveway there, 9 the impala, you got out of the car? 10 A. Yes. 11 Q. So you would have exited the car right here 12 where the arrow is on the right-hand side? 13 A. I would have exited out that passenger door. 14 Q. Prior to getting out of the car did you see 15 any police car in the street? 16 A. I did not see a police car. 17 Q. You don't see the police car in this 18 photograph here that's in front of the impala? 19 A. I cannot see a police car in front of the 20 impala in this picture. 21 Q. Okay. 22 MR. CAMPOLIETO: Would you mark this, please. 23 (Simmons Exhibit No. 10 - Photocopy Bates COR003861 - 24 marked for identification.) 25 BY MR. CAMPOLIETO:</p>

<p style="text-align: right;">229</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Take a look at the photograph that's marked 3 COR003861.</p> <p>4 A. Okay.</p> <p>5 Q. Do you see that picture?</p> <p>6 A. I see it.</p> <p>7 Q. Do you see the driveway there?</p> <p>8 A. I see it.</p> <p>9 Q. Do you know whose driveway that is?</p> <p>10 A. Detron's.</p> <p>11 Q. Okay. This would be the view of the street 12 in front of the gray impala that you used to get to the 13 store; is that correct?</p> <p>14 MR. BURKWIT: Object as to form. 15 THE WITNESS: Okay.</p> <p>16 BY MR. CAMPOLIETO:</p> <p>17 Q. When you got out of the impala you did not 18 see this police car there?</p> <p>19 MR. BURKWIT: Object as to form. 20 THE WITNESS: Couldn't see the police car. 21 The spotlight that he had on ain't even on right now. 22 The point of that spotlight is for to blind 23 you. If you ever got pulled over before they put the 24 spotlight in your mirror, in your rearview mirror. 25 That's the point of the spotlight. The point of the</p>	<p style="text-align: right;">231</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 getting closer. So I ran from the gun. 3 BY MR. CAMPOLIETO: 4 Q. So even though you were, the picture 5 demonstrates, ten to twenty feet from the street, you 6 didn't see the police car -- 7 MR. BURKWIT: Object as to form. 8 BY MR. CAMPOLIETO: 9 Q. -- police officer -- 10 A. No, I did not. 11 Q. All you saw was the gun? 12 A. Yes. 13 Q. So all you saw was the gun? 14 A. Spotlight and a gun. 15 Q. What did you do when you saw the gun? 16 A. Went the opposite way of the gun. 17 Q. So you went backwards to the back yards of 18 the houses that are shown here; is that correct? 19 A. Yes. 20 MR. CAMPOLIETO: We'll mark this Simmons 21 Exhibit 11 Bates stamped COR003901. 22 (Simmons Exhibit No. 11 - Photocopy Bates COR003901 - 23 marked for identification.) 24 BY MR. CAMPOLIETO: 25 Q. Mr. Simmons, could you take a look at Simmons</p>
<p style="text-align: right;">230</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 spotlight is to blind. 3 BY MR. CAMPOLIETO: 4 Q. When you got out of the car -- go back to 5 Exhibit 8. When you got out of the car you were on the 6 right-hand side here; is that correct? 7 A. Yes. 8 Q. What did you do when you got out of the car? 9 A. I got chased and shot. 10 Q. What did you do? 11 A. Took the bullets and dove over my fence as I ran down the driveway. 12 Q. When you got out of the car you saw the 13 spotlight; is that correct? 14 A. Yes. 15 Q. And did you turn and -- 16 A. Also seen a gun in the spotlight. 17 Q. You saw the police officer holding a weapon? 18 A. I seen a weapon from the spotlight. 19 Q. You saw the police officer holding a weapon? 20 A. Maybe you can't hear me. 21 MR. BURKWIT: Object as to form. 22 THE WITNESS: I seen a gun through the 23 spotlight because he jumped in front of the spotlight 24 and the only thing you could see is a gun and the gun</p>	<p style="text-align: right;">232</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Exhibit 11? This is a different angle of the impala 3 that you returned to the house at 9 Immel Street when 4 Detron Parker drove you to the store. If you look at 5 the arrow do you know what that arrow is pointing to? 6 A. It look like a hole. 7 Q. Do you know how that hole came to be in that 8 car? 9 A. You would probably have to ask the owner of that car. 10 Q. Do you know? 11 A. I don't know. 12 Q. Is it a bullet hole? 13 A. I just said I don't know. But you got the information for the owner of that car so ask the owner of that car how that hole got there. 14 Q. I'm actually asking you because it's your 15 deposition. 16 A. I told you twice I don't know and you still asking me the same question over. I don't know. I ain't going to know the next time you ask me because I don't know. That's not my car. I don't know. 17 Q. Okay. 18 MR. CAMPOLIETO: We're going to make this 19 Simmons Exhibit 12. This is Bates stamped COR003904.</p>

<p style="text-align: right;">233</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 (Simmons Exhibit No. 12 - Photocopy Bates COR003904 - 3 marked for identification.) 4 BY MR. CAMPOLIETO: 5 Q. Do you see this photograph, Mr. Simmons? 6 A. Yes, sir. 7 Q. What does it depict? 8 A. A garbage can, a car, and a recycling bin. 9 Q. I'm pointing to the right-hand side of 10 photograph. What address is this house? 11 A. It's a part of Tron or his neighbor house. 12 Q. So that's Detron Parker's house? 13 A. I don't know who that porch is connected to. 14 He live in a double house. I wouldn't know. I 15 wouldn't know. 16 Q. Whether it's double or not this is the house, 17 that structure, is where he lives? 18 A. Yes. 19 Q. And this structure here is 7 Immel Street; is 20 that correct? 21 A. Yes. 22 Q. And you live on the other side of 7 Immel 23 Street at 5 Immel Street? 24 A. No. No. No. 25 Q. You lived?</p>	<p style="text-align: right;">235</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Was this -- do you recall this toy vehicle 3 and the garbage can being there? 4 A. I do not recall. 5 Q. What did Detron Parker do when you ran back 6 towards the back of the house? 7 A. He ran in his house. 8 Q. Did you see him run in his house? 9 A. I seen him start running. 10 MR. CAMPOLIETO: Donna, for Exhibit 13 Bates 11 stamped COR003911. 12 (Simmons Exhibit No. 13 - Photocopy Bates COR003911 - 13 marked for identification.) 14 BY MR. CAMPOLIETO: 15 Q. Mr. Simmons, can you tell us what this 16 picture depicts or shows? 17 A. The entrance to my back yard. 18 Q. So you were running on the side of this 19 structure here where the arrow is pointing, the gray 20 structure? 21 A. Yes. 22 Q. Where were you running to? 23 A. The same structure that you just pointed at. 24 Q. Where would the entrance to your house be 25 that I'm pointing to?</p>
<p style="text-align: right;">234</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. I lived there, but it ain't like a half and 3 half. You go to my house I go downstairs. You go 4 through 7 go downstairs -- 5 Q. Hello? Excuse me, Mr. Simmons, are you 6 there? 7 A. Can anybody else hear me? 8 MR. JONES: There's something choppy with the 9 communication. 10 THE WITNESS: Can you hear me now? 11 BY MR. CAMPOLIETO: 12 Q. Yes. 13 A. All right. So it's not like a -- it ain't 14 like a side by side. It's a up and down. It got two 15 doors on two different sides, but it's a up and down. 16 Q. But in any event you lived in this structure 17 here? 18 A. Yes. 19 Q. When you got out of the car, the impala that 20 we were just referring to, and saw the gun, you ran -- 21 and correct me if I'm wrong, you ran towards the back 22 of this house on the left-hand side of the photograph? 23 A. Yes. 24 Q. You followed this area here all the way back? 25 A. Yes.</p>	<p style="text-align: right;">236</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. Right on the other side of that gate that I 3 put up for my dog. 4 Q. So this gate was here that night just like 5 that? 6 A. Yes. 7 Q. This Silver sheet of metal what is this? 8 A. That's plywood. That's a plywood shack. 9 Q. So this is an actual shed or shack? 10 A. Yes. 11 Q. Where did you run to that night, did you run 12 over this gate or did you run this way or did you run 13 even further up? 14 A. My plans was to run that way and go in my 15 house. I got shot before that and the force of the 16 bullets pushed me further in the back yard. 17 Q. Okay. 18 A. So instead of me turning, going into my 19 house, closing the door, I got shot and that's what got 20 me further into that back yard. I got shot. And 21 instead of me turning it pushed me. The velocity of 22 the bullets pushed me. 23 Q. When you were shot and first hit do you 24 recall where you were in this picture? 25 A. I was right before this opening. So if you</p>

<p style="text-align: right;">237</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 move that arrow to the left, move that arrow to the 3 left, keep going off the screen, into the driveway when 4 I got shot. Go further. Go further. I'm way further 5 in the driveway when I got shot.</p> <p>6 Q. I'm going to go back. So if we go back to --</p> <p>7 A. That's just about where I got shot at.</p> <p>8 Q. Hang on.</p> <p>9 A. I'm trying to tell you where I got shot at.</p> <p>10 Q. I know. I've got to --</p> <p>11 A. I'm telling you. I was there. I was there 12 that night.</p> <p>13 Q. Hang on one second. All right. Mr. Simmons, 14 we're going to look at this photograph here.</p> <p>15 MR. CAMPOLIETO: Would you mark this Simmons 16 Exhibit 14 COR003913.</p> <p>17 (Simmons Exhibit No. 14 - Photocopy Bates COR003913 - 18 marked for identification.)</p> <p>19 BY MR. CAMPOLIETO:</p> <p>20 Q. Does this picture depict an area where you 21 were shot?</p> <p>22 A. Yes. That is the area.</p> <p>23 Q. Okay. Where this toy vehicle is where in 24 relation to that toy vehicle were you first hit?</p> <p>25 A. Around that arrow.</p>	<p style="text-align: right;">239</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 A. I dove over that fence.</p> <p>3 MR. CAMPOLIETO: Would you mark this Simmons 4 Exhibit No. 16 Bates stamped COR003935, please. 5 (Simmons Exhibit No. 16 - Photocopy Bates COR003935 - 6 marked for identification.)</p> <p>7 BY MR. CAMPOLIETO:</p> <p>8 Q. This photograph doesn't show the fence that 9 you dove over does it?</p> <p>10 A. It does not.</p> <p>11 Q. Does it show the area where you landed?</p> <p>12 A. It does not.</p> <p>13 Q. Does it show the area where your clothes are 14 on the ground?</p> <p>15 A. At that moment.</p> <p>16 Q. What do you mean "at that moment"?</p> <p>17 A. I wasn't always there. They dragged me into 18 the back yard. I was never supposed to be there. So 19 when I dove over the fence I tried to get to my house. 20 My leg, I thought I was paralyzed. So I tried to crawl 21 to the house.</p> <p>22 As I'm crawling to the house I was in front of the 23 shed before I started playing dead. When I got to the 24 shed I was able to see a piece of Ferrigno. That's why 25 I played dead. He was hiding around the side of the</p>
<p style="text-align: right;">238</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. So this cement slab here on the ground in 3 Exhibit 14?</p> <p>4 A. Yeah. I could have hopped over that car.</p> <p>5 Q. I'm sorry?</p> <p>6 A. I said I could have jumped over that car, but 7 that's the area where that first bullet hit me at.</p> <p>8 Q. So you were propelled forward, if you're 9 looking at the picture, towards where you would be 10 looking at the picture, right? You were propelled 11 forward here?</p> <p>12 A. Yes. I got propelled forward three times 13 before I dove over that fence.</p> <p>14 MR. CAMPOLIETO: Let's mark this Simmons 15 Exhibit 15.</p> <p>16 (Simmons Exhibit No. 15 - Photocopy Bates COR003917 - 17 marked for identification.)</p> <p>18 BY MR. CAMPOLIETO:</p> <p>19 Q. This Exhibit 15, this photograph Bates 20 stamped COR003917, this is the fence you're referring 21 to?</p> <p>22 A. Yes.</p> <p>23 Q. The fence shown in Exhibit 15 here?</p> <p>24 A. That's the fence I dove over.</p> <p>25 Q. You dove over this fence?</p>	<p style="text-align: right;">240</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 house. Ferrigno was never in that back yard period 3 until after I got shot.</p> <p>4 Q. Okay. Let me get a different picture here.</p> <p>5 MR. CAMPOLIETO: Would you mark this Simmons 6 Exhibit 17, please.</p> <p>7 (Simmons Exhibit No. 17 - Photocopy Bates COR003936 - 8 marked for identification.)</p> <p>9 BY MR. CAMPOLIETO:</p> <p>10 Q. This is Exhibit 17, Bates stamped 3936. Do 11 you recognize this photograph, Mr. Simmons?</p> <p>12 A. My back yard.</p> <p>13 Q. Okay. Does it show the area where your 14 clothes were?</p> <p>15 A. The ambulance cut my clothes off. I don't 16 know who put those clothes there, the police, or the 17 ambulance. When I was laying on the ground my clothes 18 was on. So I don't know who put them clothes there or 19 that's not depicted as he was sitting right here, boom. 20 That's where his clothes at. We're going to leave his 21 clothes where he's at. Everything in my back yard is 22 fabricated.</p> <p>23 Q. Does it show the area where you landed after 24 you leaped over the fence?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">241</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Would it be by the shed here? 3 A. Yes. 4 Q. Okay. When you leaped over the fence -- 5 A. When I dove -- I couldn't leap over the fence. That's why I dove over the fence. 6 Q. Okay. So you dove over the fence, not 7 leaped? 8 A. I got shot in both of my legs and my back. I only could dive over the fence. 9 Q. So you were shot three times when you dove 10 over the fence? 11 A. Yes, sir. 12 Q. And you landed here? 13 A. Yes, sir. 14 Q. The clothes here indicate that this is where 15 your clothes were cut off by the medical personnel. 16 A. Okay. 17 Q. You don't believe that you were ever landed 18 here after you dove over the fence or fell here? You 19 believe you were moved? 20 A. I'm sorry. I don't believe. I know for a fact that that's not where I was at. Like I don't believe. I know for a fact that's not where I was at. I know for a fact I got drug further into that back</p>	<p style="text-align: right;">243</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 crawl. 3 When I started to crawl towards my back door I'm not supposed to be -- none of my stuff is supposed to be no where in this picture. I'm supposed to be further by this porch by that back door with the shed kind of blocking me. That's where I played dead at because I couldn't get to my -- I couldn't get out there in front of my door. I could see my door. Like I'm right there. If I could hop up and wasn't shot in my leg I could have jumped in my house. 4 Q. You played dead here; is that correct? 5 A. No, I did not play dead here. You're not listening. Take that arrow and go towards my back door. You can't see me from around that, around my back door. I would have been by my door. I wouldn't have been no where in this picture. I would have been by my back door. Go to my back door. 6 Q. Hang on one second, Mr. Simmons. When you dove over the fence you landed here and then did you crawl towards your door? 7 A. I'm sorry. Do that again. I looked away. 8 Q. When you dove over the fence and landed here did you crawl towards your back door? 9 A. I tried to get up and run to my back door. I</p>
<p style="text-align: right;">242</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 yard. 3 Q. Okay. Who dragged you into this area here 4 further back into the back yard? 5 A. They dragged me a little further back in there. That's just where the ambulance cut my clothes off at. 6 Q. Who dragged you there? 7 A. That's where they put my clothes after they -- Ferrigno and Sam Giancursio. 8 Q. They both dragged you there at the same time? 9 A. Yes. 10 Q. What did they use to drag you there your arms 11 or your legs? 12 A. My body. 13 Q. Your body? Did they pick you up off the 14 ground from here? 15 A. No. They drug me. They drug me like a piece of meat just like they drug a deer, Just like you would drag a deer that's how they drug me. When I'm landed -- I hopped over the fence. I dove over the fence and I landed and I'm trying to get up and attempt to run. I could not run because I got shot in my sciatic nerve which made me feel like I was paralyzed. That's how I ended up back up on the ground trying to</p>	<p style="text-align: right;">244</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 got up. As I'm getting up to run my leg is not working. Like nothing is working. I feel like I'm paralyzed. That's how I hit the ground. I started crawling and crawling and crawling like they crawl in boot camp under the wires. I'm trying to crawl. 3 MR. BURKWIT: Hey, John, I was going to suggest why don't you scroll through the pictures and have Silvon tell you where to stop. If you want to have him show you a good picture of where he was when he landed or -- you know what I mean? 4 THE WITNESS: -- trying to avoid -- 5 BY MR. CAMPOLIETO: 6 Q. Hang on a second, Mr. Simmons. When you dove over the fence you landed here; is that right? 7 A. I landed in that area. 8 Q. I'm going to do what your attorney suggested. Just hang on. 9 MR. CAMPOLIETO: Would you mark this, please. 10 (Simmons Exhibit No. 18 - Photocopy Bates COR003937 - marked for identification.) 11 BY MR. CAMPOLIETO: 12 Q. Does this photograph show you a better picture -- 13 A. Yes. Yes.</p>

<p style="text-align: right;">245</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. Hang on. Let me ask you a question. 3 When you dove over the fence, Mr. Simmons, look at 4 the arrow that I'm pointing to by the shed here. You 5 landed in this area? 6 A. Yes. 7 Q. And you crawled toward your -- 8 A. Let's back up. Let's back up. 9 Q. No. 10 A. How am I supposed to tell you what happened? 11 Q. I want to ask the question, Mr. Simmons. You 12 landed here and did you move in this direction towards 13 your house? 14 A. I could talk now? 15 Q. You can answer that question. 16 A. No, I did not. 17 Q. What did you do? 18 A. I went towards the back door. It's a -- if 19 you move -- if we're looking at the shed it's a door 20 behind that shed right there that's connected to my 21 house. It's a whole sidewalk. And you just said what 22 does that depict in the last picture. I said this the 23 fence that I put up for my dog. It's a whole door over 24 there. It's a whole entire door over there. That's 25 the same door that we let the dog out. That's the same</p>	<p style="text-align: right;">247</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 When I was up there, if you move that arrow to the 3 left, move it down a tiny bit towards the base of that 4 cement on that house, down, down. Please move it down. 5 Move it down. Right there. Keep it right there. 6 Right there where that arrow is at it got to be a whole 7 four-foot space, a whole piece of sidewalk right there 8 and my door is right here. 9 So if I'm behind the shed my door is facing this 10 way. I can walk, open this door and go in my house, 11 either go in my kitchen or go in my basement to my 12 washer and dryer. This is the thing, I'm using that 13 shed as cover. I just got shot. I'm not getting 14 shot -- I'm trying my best to not get shot again. 15 The only reason why I didn't try to make a crawl 16 for it to the door, my kids is in the house and this 17 idiot, I mean this lunatic, this police officer, who 18 just shot me is still on the side of the house. If you 19 take a picture looking from that arrow towards Detron 20 house it's a whole area. He's hiding on the side of 21 the house outside of the cover waiting to actually 22 shoot me if I can get to my back door in that open 23 space. So I played dead. I can hear him. I played 24 dead. I do not want to get shot again. Do you 25 understand that?</p>
<p style="text-align: right;">246</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 door that on the way to the basement that you all tore 3 up when y'all was searching my house y'all seen that 4 big door. 5 Q. Mr. Simmons, okay. So you landed here and 6 you moved towards the back of the shed? 7 A. Yes. And I stayed behind the cover of that 8 shed. I stayed behind the cover of that shed. I was 9 no where way over there. I played the shed because I 10 knew that this guy still had his gun and he's still 11 over there somewhere. That's the only reason why I 12 didn't keep crawling to my house. Because as soon as 13 he saw me he was going to shoot me. He just shot at me 14 four times and hit me three times. I was never over 15 there. I was never out in the open so I can get shot 16 again. I only dove over a fence because I just got 17 shot three times. 18 Q. So you believe Simmons and his partner -- 19 A. No -- 20 Q. Hang on. Let me ask the question, Mr. 21 Simmons. You believe Officer Ferrigno and his partner 22 dragged you from behind the shed to the area where your 23 clothes are depicted in the photograph in Exhibit 18? 24 A. I'm going to tell you again, man, and I pray 25 that since you so smart you listen to me closely, man.</p>	<p style="text-align: right;">248</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 Q. I do. So when you landed over the fence you 3 landed here and crawled back to -- 4 A. I landed there. I tried to get up. I can't 5 walk. I get to the front of the shed, try to crawl in 6 my house. 7 Q. Okay. 8 MR. BURKWIT: John, can I just clarify for 9 the record what Mr. Simmons just described? But it 10 appears in that deposition exhibit -- go down, John. 11 That one's fine. Go up a little bit. No. Down, down, 12 down. I apologize. That picture right there, John. 13 That's 3937. So from what I heard, Silvon, you dove 14 over the fence -- 15 MR. CAMPOLIETO: No, I don't need you to 16 explain it. 17 MR. BURKWIT: I think we need to clarify for 18 the record. 19 THE WITNESS: Everybody understands except 20 for John. 21 MR. BURKWIT: I want to -- 22 MR. CAMPOLIETO: I don't need you to explain 23 it, Charlie. 24 MR. BURKWIT: That's fine. If you don't want 25 to clarify the record let's leave it muddled up.</p>

<p style="text-align: right;">249</p> <p>1 S. Simmons - Examination by Mr. Campolieto 2 MR. CAMPOLIETO: Okay. 3 MR. BURKWIT: That's fine. I'm just trying 4 to give clarification that's all. If you don't want it 5 we don't need it. 6 MR. CAMPOLIETO: Actually, Charlie, I don't 7 think I have any further questions. I'm all done. 8 MR. BURKWIT: Jordan? 9 MR. JONES: Yes. You said you wanted to be 10 done by two thirty. I'm probably going to be about two 11 hours with Mr. Simmons, but it might be helpful to 12 check how much time has been used with him, but my 13 suggestion would be that we not continue today and just 14 do a shorter two-hour third session of just Shotspotter 15 only because I'm not going to be done by two thirty. 16 MR. BURKWIT: I'd rather get Mr. Simmons done 17 today. 18 THE WITNESS: I'd rather get done today too 19 if you don't mind. 20 MR. BURKWIT: Silvon, please. For the 21 record, I mean if you go two hours that means Mr. 22 Simmons will have gone eight hours in a deposition. I 23 would rather have this be done and over today, Jordan, 24 if you can limit it to two hours and have him done I'd 25 rather continue and get him over with.</p>	<p style="text-align: right;">251</p> <p>1 S. Simmons - Examination by Mr. Jones 2 before the events we've been discussing about 3 Shotspotter? 4 A. I thought Shotspotter was just a thing that 5 the police did. I didn't know that they had to go back 6 and forth for weeks and days and months to try to 7 figure out simple stuff. I thought it was a straight 8 if you bop, bop, bop, it show up on the police radar on 9 the map or something and then they supposed to show up. 10 I know numerous times people in the neighborhood 11 doing fireworks and the police come through asking if 12 there's been any gunshots and if they don't see nobody 13 hurt or whatnot they roll off, tell everybody to be 14 careful. 15 Q. Okay. Then prior -- any other impressions or 16 thoughts that you had about Shotspotter prior to the 17 events we've been talking about? I'm just trying to 18 separate -- 19 A. I never had a problem with Shotspotter or I 20 never was involved because of Shotspotter. I wouldn't 21 have never known nothing about Shotspotter until this 22 episode as far as in how y'all say y'all actually work. 23 Because the way they explained it on the news when 24 the system got here is that y'all detect, that it's a 25 gun detection system that alert the police to a</p>
<p style="text-align: right;">250</p> <p>1 S. Simmons - Examination by Mr. Jones 2 MR. JONES: Okay. Well, let's take a 3 ten-minute break and then we'll start. 4 MR. BURKWIT: Okay. 5 (Recess taken.) 6 EXAMINATION BY MR. JONES: 7 Q. Hi, Mr. Simmons. My name is Jordan Jones. I 8 represent Shotspotter and Paul Greene and I'm going to 9 ask you questions that are I think specific to my 10 clients and we'll try not to go over what you've 11 already discussed with Mr. Campolieto unless it's 12 somehow relevant. 13 Can you tell me how you first heard about 14 Shotspotter, please? 15 A. Shotspotter been around for years. So when 16 it -- I probably heard about it through the news when 17 it first came on the scene in Rochester. 18 Q. So you'd heard about it prior to the shooting 19 we've been discussing? 20 A. Yes. 21 Q. Okay. What did you hear about it or know 22 about it prior to the events we've been talking about? 23 A. I knew if it was some shots fired the police 24 should come to that exact location asap. 25 Q. Okay. Anything else you recall that you knew</p>	<p style="text-align: right;">252</p> <p>1 S. Simmons - Examination by Mr. Jones 2 location. The police come to that location within 3 minutes saving all this time, whatever. 4 I never knew that they had -- I never knew that 5 everything that happened in my situation, I never knew 6 that that was a part of -- I never knew the police had 7 to call Shotspotter and tell them the caliber of guns 8 and the location of shots and how many shots, 9 Shotspotter was supposed to figure out all that by 10 themselves within so many minutes of when the police 11 arrive. 12 Q. Right. I understand that. And we'll get 13 into that. I'm just trying to understand what you knew 14 about the company or the system, your experiences with 15 it prior to its involvement with your situation. 16 A. I never had -- 17 Q. I'm sorry. Anything else you recall? 18 A. Yeah, I never had a need to worry about 19 Shotspotter before I got shot. 20 Q. Okay. Then can you tell me in your own words 21 how you first became aware of Shotspotter in connection 22 with the shooting events that we've been talking about 23 that involved you? 24 A. So I didn't know the background, the stuff, 25 until my discovery. So I do recall asking my lawyers</p>

<p style="text-align: right;">253</p> <p>1 S. Simmons - Examination by Mr. Jones 2 to check Shotspotter because Shotspotter should have 3 picked up some shots. So I was really hoping that that 4 night y'all was supposed to help me because y'all was 5 supposed to have everything right then and there 6 without going back and forth to prove my innocence and 7 that didn't happen. That turned into a whole fiasco. 8 But I was kind of dependent on Shotspotter to prove my 9 innocence.</p> <p>10 Q. Okay. What do you mean by that? Can you 11 elaborate on what you mean by you were relying on 12 Shotspotter to help prove your innocence?</p> <p>13 A. After I learned that I was supposed to have 14 been involved in the shooting where I was supposed to 15 have actually shot a gun at a police officer, I was not 16 trying to hear that. Like I know I didn't do that. So 17 I thought that if they can get in contact -- I thought 18 that if we could get in contact with y'all and get 19 whatever, that it would prove what exactly actually 20 happened and that is not what happened.</p> <p>21 So how it worked and how it been working in the 22 neighborhood, because, like I say, the police came to 23 different locations and get to different locations and 24 get praised for getting to locations because of 25 Shotspotter, and that all happened within a matter of</p>	<p style="text-align: right;">255</p> <p>1 S. Simmons - Examination by Mr. Jones 2 about that, please?</p> <p>3 A. About Paul Greene that was in the criminal 4 trial? He's from Shotspotter.</p> <p>5 Q. He is, correct.</p> <p>6 A. So you're asking me as I'm going through this 7 criminal trial and hearing Paul Greene speak what did I 8 learn about Shotspotter?</p> <p>9 Q. Well, in general I'm asking what do you 10 recall about Mr. Greene or the Shotspotter system and 11 how it was described during your criminal trial?</p> <p>12 A. During my criminal trial when Paul Greene 13 started explaining we had already did our own little 14 investigation. During the trial as I'm listening to 15 Paul Greene on the both sides as the DA is questioning 16 him and then as we are questioning him I learned that 17 Shotspotter isn't at all what they say it is.</p> <p>18 I learned that in previous years of living in the 19 inner city and hearing gunshots and seeing police swarm 20 locations and come for fireworks and everything else 21 within a matter of seconds, Shotspotter did not work 22 like that for me that night with this police involved 23 shooting.</p> <p>24 Shotspotter that night everything was manual. Like 25 it didn't pick up what it was supposed to pick up.</p>
<p style="text-align: right;">254</p> <p>1 S. Simmons - Examination by Mr. Jones 2 five minutes.</p> <p>3 I never would have thought that they would have had 4 to do all of that. I thought that Shotspotter was so 5 reliable that it actually did what y'all say it do and 6 that was not the case.</p> <p>7 Q. When you say that is not the case, what -- so 8 I know that you've learned a little bit more about the 9 company -- a lot more about the company through the 10 case and maybe listening to some of the deposition 11 testimony, et cetera. So I'm trying to understand in 12 connection with -- leaving aside what you've later 13 found out as we've gone through litigation can you tell 14 me how Shotspotter came up or was involved in the 15 criminal trial that you were acquitted of that arose 16 out of the shooting event? Can you give me your 17 understanding of what you recall about how Shotspotter 18 was involved or related to that?</p> <p>19 A. I'm sorry. Could you repeat that?</p> <p>20 Q. Sure. So at some point -- if I understand 21 you correctly at some point was Shotspotter or an 22 employee from Shotspotter involved in your criminal 23 trial?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Can you explain to me what you recall</p>	<p style="text-align: right;">256</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Then it had to add stuff. Then Paul Greene had to try 3 to explain why they had to add it and why they had to 4 do this, and then the fifth, and they could never 5 answer any of our questions. Then the stuff that we 6 asked the judge for him to bring he never brung none of 7 it.</p> <p>8 I just felt as if, man, I hear the shots in the 9 neighborhood. I see the police show up in a matter of 10 seconds, but in my situation that's not what happened.</p> <p>11 And then like I looked at the news like from the 12 Genesee shooting and as we getting into trial and I'm 13 paying attention to how the Shotspotter didn't even 14 work that night because the echoes was somewhere else 15 that got picked up that wasn't no where on Genesee 16 Street. I'm like damn, Shotspotter, I felt like y'all 17 was a fraud company. Like it was a fraud company. But 18 it's been situations where I know I've been in the 19 neighborhood and heard gunshots and I seen the police 20 show up in that area minutes later, and it wasn't -- I 21 don't know how far into it go, but I never ever once 22 heard that they had to get on the phone with 23 Shotspotter and tell Shotspotter what type of caliber 24 and what type of -- the exact location, and that was 25 supposed to automatically computerize itself and that's</p>

<p style="text-align: right;">257</p> <p>1 S. Simmons - Examination by Mr. Jones 2 how it work, but in this situation that is not how it 3 worked whatsoever. It went totally -- like it went 4 wrong.</p> <p>5 I did music production and I know how audio and 6 catches and everything that y'all talk about. I know 7 how that work and for this situation I just feel as if 8 during the trial I just felt like I could see it. I 9 could see Shotspotter going with everything RPD said. 10 Because usually RPD ain't got to correct itself three, 11 four times.</p> <p>12 Shotspotter who do all this countrywide and outside 13 of the country, and if it's a military system and they 14 do it on military bases I would think that y'all 15 wouldn't be like so immature at your professionalism.</p> <p>16 So for them to have to call Shotspotter numerous 17 times and email them and get this person and then 18 switch to this person so they could override this 19 person, it just look like -- well, it don't look it. 20 This is what it is. It went with the conspiracy of the 21 police try to do the cover up for shooting me and 22 that's why I'm pissed with Shotspotter right now.</p> <p>23 Because nobody from Shotspotter know me, but y'all 24 know that you receive money from RPD and all type of 25 police things. So I don't pay y'all nothing. So when</p>	<p style="text-align: right;">259</p> <p>1 S. Simmons - Examination by Mr. Jones 2 want them to be a liar. I figured that y'all would at 3 least have the honesty that -- this is me talking. I 4 thought that y'all would have had the honesty to have 5 been like this is what we heard that night and that's 6 not what happened. It got corrected. It went from 7 three -- it went from helicopter to three, to four, to 8 five, but it didn't do that until after the police had 9 to let y'all know what type of calibers that they said 10 was involved, the locations that they said was 11 involved, and for a multi million dollar company who 12 get paid multi million dollars to run that company, I 13 know y'all got high end state of the art equipment.</p> <p>14 So me knowing that, like so I work with programs 15 like Pro Tools, Cakewalk, and all this other stuff, the 16 better the program the more you can do. And I noticed 17 that like even if y'all say we only clipped it from 18 here to here, I know that's not right. Like I know in 19 my heart that's not right. I know it's a lot of money 20 and I ain't got the money to contend with y'all, but I 21 know that the police ain't supposed to call y'all and 22 tell y'all that. Y'all supposed to know that. That's 23 what your system is supposed to do. So then --</p> <p>24 Q. I'm sorry. Go ahead.</p> <p>25 A. -- for them to call, and another thing that</p>
<p style="text-align: right;">258</p> <p>1 S. Simmons - Examination by Mr. Jones 2 I looked into y'all for closure in to prove my 3 innocence as I'm hearing Paul Greene speak I see Paul 4 Greene and Shotspotter listen to the police that night, 5 the next day, and for another couple of weeks and now 6 the Shotspotter story, and between the police and I'm 7 looking at it between the police interrogating me and 8 coming up with their story to try to go against 9 everything that I say to try to make it look good, I 10 notice that they still had to tell Shotspotter who is 11 supposed to detect this themselves who been doing this 12 for years, and try to pinpoint locations, y'all had to 13 like manually go through different people, people, and 14 people, and that's not y'all your thing. Y'all don't 15 normally do that. Because if y'all had to do this in 16 every situation y'all wouldn't be a successful multi 17 million dollar company.</p> <p>18 For this situation I noticed that because the 19 police was involved it was able to go back, and then it 20 was able to go back again, and was able to go back 21 again, and for the amount of money that y'all get paid 22 I would think that in a police shooting I would have 23 thought Shotspotter be like holy shit, it's a police 24 shooting. Let's save from this moment to this moment 25 we got a police officer that's in danger and we don't</p>	<p style="text-align: right;">260</p> <p>1 S. Simmons - Examination by Mr. Jones 2 pissed me off, when I'm listening to Paul Greene and he 3 trying to do the shots I noticed that Paul Greene kind 4 of took advantage of the jurors. Like Shotspotter took 5 advantage of the jurors. RPD took advantage of the 6 jurors. Because when they said it was a nine caliber 7 and it was a forty-five caliber and when y'all made the 8 recordings y'all couldn't find none of these shots. 9 Y'all trying to go back and then you find one. Y'all 10 found one, and, okay, we found that. Okay. It was 11 helicopter noise. Okay. RPD got a call and now all of 12 a sudden it's a police involved shooting so now we got 13 three bullets.</p> <p>14 Then after they say there's four shell casings 15 here. There's got to be another one. Then they y'all 16 called you again and you just agreed it was four shots. 17 We found another shot that's so much of a second right 18 then and there.</p> <p>19 It's impossible to me how y'all couldn't have 20 listened to the couple of seconds, and y'all listened 21 to the clip and y'all heard them shots in the first 22 place. So it don't take a genius to go back and know a 23 gunshot. So y'all had to go back and you still didn't 24 get the gunshot that they wanted so y'all had to go 25 back and get another one. Then when they said a nine</p>

<p style="text-align: right;">261</p> <p>1 S. Simmons - Examination by Mr. Jones 2 and then said a forty-five, for people who don't know 3 guns or who don't know audio, all they thought what 4 bothered me was that Paul Greene tried to explain it 5 and he was using nine millimeter forty-five. The 6 police is using like nine millimeter forty-five.</p> <p>7 To the average Joe if you say forty-five they think 8 a big number. If you say nine they think a little 9 number. What kills me is when they say we found that 10 one last shot and one last shot was supposed to come 11 from a nine, the noise level is down on there and that 12 tricks the jurors to say, oh, since it was a lower 13 caliber it had to have a lower sound. But if you call 14 any gunsmith or any gun expert or any police arms 15 examiner they both use a nine and a forty-five and the 16 common sense will tell you because they shoot all day 17 every day, if you look at the shell casings of what's 18 supposed to be in the shell casings they look like they 19 got the same amount of gun powder and everything else. 20 So they should have sounded about the same.</p> <p>21 What pissed me off is that that kind of tricked the 22 jury and the jury was undecided and that's why they 23 wanted to keep listening to Shotspotter because they 24 stuck on, oh, this low noise and oh, this high noise. 25 And it's just like Shotspotter didn't do what it has</p>	<p style="text-align: right;">263</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Q. I'm asking a different question. I 3 understand you may think he implied that. Did he ever 4 say that he could tell which of those sounds came from 5 Mr. Ferrigno's gun?</p> <p>6 A. No, sir.</p> <p>7 Q. He never said at that trial that you had shot 8 a gun, right?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. Have you ever met anyone from 11 Shotspotter prior to this litigation?</p> <p>12 A. No, sir.</p> <p>13 Q. Have you ever spoken other than what you saw 14 of Mr. Greene, and I think some of the depositions you 15 may have attended in this case of Shotspotter 16 witnesses, have you had any communications with any 17 Shotspotter employees?</p> <p>18 A. No, sir.</p> <p>19 Q. Okay. Now earlier you said that you believed 20 Shotspotter conspired with the Rochester Police 21 Department; is that right?</p> <p>22 A. Absolutely.</p> <p>23 Q. Okay. Has anyone told you they conspired 24 with the Rochester Police Department or is that just 25 your belief?</p>
<p style="text-align: right;">262</p> <p>1 S. Simmons - Examination by Mr. Jones 2 been paid and known to do for almost a decade and that 3 like --</p> <p>4 Q. Can I -- let me break some of that down. 5 Because I want to ask some specific questions. I 6 understand and I wanted to hear where you're coming 7 from and I think you may understand now better about 8 the system and that it's not a perfect system. But let 9 me ask you a couple questions.</p> <p>10 When Mr. Greene testified did he testify and say 11 that you had shot a gun at the police? Did he ever say 12 that?</p> <p>13 A. He did not say that. When I was talking I'm 14 saying the way he explained it --</p> <p>15 Q. I understand, but I want to --</p> <p>16 A. He never -- no. He never excused me of 17 nothing --</p> <p>18 Q. Okay.</p> <p>19 A. -- that I recall.</p> <p>20 Q. Okay. Do you recall him saying or making any 21 accusations about how many shots that Police Officer 22 Ferrigno made?</p> <p>23 A. He did say that once he got the call he went 24 back and he upgraded it or y'all upgraded it from three 25 to four. So, yes, he did imply that.</p>	<p style="text-align: right;">264</p> <p>1 S. Simmons - Examination by Mr. Jones 2 A. The proof is in the pudding, man. Like y'all 3 gave out a statement and then somebody else called 4 y'all. This is what you do for a living. Y'all spot 5 shots in neighborhoods and pinpoint stuff. Somebody 6 who don't do that had to call you and tell y'all to 7 change y'all way of doing y'all things to upgrade the 8 system to another bullet or another shot. And then 9 when y'all did it they had to call and try to correct 10 y'all again. Y'all did it. Y'all complied. Y'all 11 complied three times with the Rochester Police 12 Department. Y'all had a recording even on squelch mode 13 that I never heard of in my life and nobody else from 14 Shotspotter don't seem to be able to answer that and 15 y'all still changed it to what the police told you.</p> <p>16 Q. I understand your allegations. I 17 understand -- because we can go back and forth and 18 that, but I'm not here to argue with you about that.</p> <p>19 Has anyone told you that any employees of 20 Shotspotter conspired with the Rochester Police 21 Department in connection with your case?</p> <p>22 A. Of course not.</p> <p>23 Q. Okay. Has anyone told you that Shotspotter 24 fabricated evidence in connection with your case?</p> <p>25 A. No -- well, the people that I'm around told</p>

<p style="text-align: right;">265</p> <p>1 S. Simmons - Examination by Mr. Jones 2 me this, but nobody from Shotspotter told me this. 3 Q. Who has told you that Shotspotter fabricated 4 evidence in connection with your case? 5 A. Myself, everybody who look at the case and 6 see that RPD had to tell Shotspotter how to do their 7 job and how to change sounds on their job. Paul Greene 8 even said that y'all can do certain things and audio 9 and RPD got the same way to do those certain things 10 that y'all can do. So he said that y'all can add, 11 change, or remove audio. He admitted that. 12 Q. Again, I'm asking a different question. Who 13 has told you that Shotspotter -- 14 A. That Shotspotter -- 15 Q. Who has told you that either Shotspotter or 16 Mr. Greene fabricated evidence in connection with your 17 case? 18 A. Just the people who support me that don't 19 work at Shotspotter. 20 Q. Okay. Who are they? 21 A. Friends, family, relatives, people who came 22 to court. Everybody that -- 23 Q. So you're making very serious allegations 24 against my client. So I'm trying to understand the 25 basis of those allegations. So you've now said that</p>	<p style="text-align: right;">267</p> <p>1 S. Simmons - Examination by Mr. Jones 2 of "Let's fabricate evidence. Let's make up evidence 3 against Mr. Simmons." Have you come across any 4 communications or heard of any communications to that 5 effect? 6 A. Well, I could say, yeah. I mean they didn't 7 come out and literally -- they not going to come out 8 and say "Let's fabricate evidence against Silvon 9 Simmons," but they have. Because they had to call 10 y'all three times and tell you you need another shot. 11 You need another shot. That was between RPD and 12 Shotspotter. With them emails that was between 13 Shotspotter employees and Shotspotter employees. 14 For some reason somebody just couldn't get it right 15 there and at the end of the day it took days and weeks 16 for y'all system to line up with the police story. So 17 I mean that in itself is whoever at RPD talked to 18 whoever at Shotspotter. 19 Q. So let me ask you this, you've made 20 references to emails and the communications between RPD 21 and Shotspotter. How did you become aware of those 22 communications? 23 A. Via discovery through criminal trial, via 24 discovery through what we going through now. 25 Q. Okay. Have you been made aware of any</p>
<p style="text-align: right;">266</p> <p>1 S. Simmons - Examination by Mr. Jones 2 several people told you that Shotspotter fabricated 3 evidence. Who are those people? 4 A. Several people in my circle. 5 Q. Can you give me their names, please? 6 A. My mom, my dad, my brothers, my sisters, my 7 co-workers. I mean the list will go on. The rooters, 8 the list will go on and on and on. I mean I'd be here 9 for two hours just naming names. 10 Q. Okay. So I understand that you're saying the 11 list is too long for you to list right now? 12 A. Yes. I think that's a good answer. Just 13 people in my circle. 14 Q. Have any expert witnesses told you that 15 Shotspotter fabricated evidence in connection with your 16 case, any experts in gunshots, any experts in 17 acoustics, any experts in forensics, any experts have 18 ever told you that they believe Shotspotter fabricated 19 evidence in connection with your case? 20 A. At this time no one and no experts at this 21 time. 22 Q. Are you aware of any communications between 23 Shotspotter, Mr. Greene, or any other Shotspotter 24 employees, and the Rochester Police Department where 25 there has been a discussion of something of the effect</p>	<p style="text-align: right;">268</p> <p>1 S. Simmons - Examination by Mr. Jones 2 communications between Shotspotter and RPD on the 3 Rochester Police Department other than those that 4 you've been privy to or come to learn through the 5 discovery of the criminal trial or the discovery in 6 this trial? 7 A. Are you asking me before my situation have I 8 ever heard of Shotspotter doing this or after my 9 situation have I ever heard of Shotspotter doing this? 10 Q. No. No. What I'm saying is, you made 11 reference to the back and forth communication between 12 Shotspotter and Rochester Police Department, which I'm 13 aware of, obviously, because counsel and having read 14 the documentation, and all I'm saying is your 15 understanding or your awareness of the communication 16 between Rochester Police Department and Shotspotter, 17 that understanding came from what you learned either 18 during the criminal trial or during this litigation; is 19 that correct? 20 A. Yes, sir. 21 Q. Okay. So what I'm asking you is beyond what 22 you learned through the criminal trial and this 23 litigation are you aware of any other communications 24 between Shotspotter and the Rochester Police Department 25 that you learned about through any other means other</p>

<p style="text-align: right;">269</p> <p>1 S. Simmons - Examination by Mr. Jones 2 than the two cases?</p> <p>3 A. See that's a wide question. Because also as 4 we was trying to learn about Shotspotter and we was 5 looking into the Genesee shootings we learned that 6 Shotspotter didn't work neither and sent the police to 7 a whole totally different location. And then later on 8 the news and then trial with that situation y'all made 9 it seem as if the sensors in that neighborhood still 10 picked up them gunshots which it did not.</p> <p>11 Q. Okay. I'm asking about in connection with 12 your case, not that other shooting.</p> <p>13 A. With my case I only learned what I learned 14 that we know that I learned.</p> <p>15 Q. So the information you have you only learned 16 through either the criminal trial or this litigation?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. As far as dealing with Silvon Simmons. I 20 done read other reports about Shotspotter and open and 21 other places that's on the web that done let 22 Shotspotter go or fired Shotspotter or denied their 23 service or didn't rekindle their contracts. But as far 24 as Silvon Simmons, no.</p> <p>25 Q. Right. No, that's what I'm interested in.</p>	<p style="text-align: right;">271</p> <p>1 S. Simmons - Examination by Mr. Jones 2 felt as if scientifically Shotspotter is a joke.</p> <p>3 Q. Okay. Is it correct that the judge did not 4 make a finding or make any comments that suggest that 5 Shotspotter or Mr. Greene had fabricated evidence?</p> <p>6 A. He did not.</p> <p>7 Q. Okay. Have you -- so you earlier talked 8 about the calibers of the gun and sounds. Are you 9 saying that Mr. Greene testified about the shots and 10 which caliber of gun was used for each shot; is that 11 your recollection?</p> <p>12 A. That's not what I'm saying. So the jurors -- 13 what I'm explaining is the jurors is there from day one 14 to day end. So it was other witnesses as far as RPD 15 and blah, blah, blah, but before Mr. Greene got a 16 chance to get up there and talk and like the 17 Shotspotter noise and Mr. Greene is all the same people 18 that's all Shotspotter evidence. Do you know what I'm 19 saying?</p> <p>20 The recording is Shotspotter evidence. Mr. Greene 21 coming out here and representing Shotspotter is all a 22 part of Shotspotter evidence.</p> <p>23 The police already shouted out there these caliber 24 guns. The DA already showed pictures of Ferrigno gun 25 and walked around the courtroom with the gun that RPD</p>
<p style="text-align: right;">270</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Because obviously Shotspotter is in lots of locations 3 may be involved in other incidents, other shootings. 4 Obviously the Rochester Police Department gets involved 5 in other incidents, other shootings. I'm just 6 interested in the one we're here to talk about today 7 which involves you.</p> <p>8 A. No, sir. Only criminal and civil is where 9 I'm --</p> <p>10 Q. Okay. So what do you recall happened in 11 connection with your criminal trial? What do you 12 recall happening in terms of the judge and the judge's 13 statements in connection with the Shotspotter system or 14 the testimony of Mr. Greene?</p> <p>15 A. You would have to clarify that a little bit 16 better for me.</p> <p>17 Q. Yes. You were acquitted in the criminal 18 trial; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And at some point do you recall whether or 21 not the judge made any comments about the admissibility 22 of the Shotspotter evidence?</p> <p>23 A. Yes.</p> <p>24 Q. What do you recall about that?</p> <p>25 A. He didn't like that situation neither and he</p>	<p style="text-align: right;">272</p> <p>1 S. Simmons - Examination by Mr. Jones 2 had planted in my back yard, or supposedly said that I 3 was supposed to have. So the jurors already had the 4 idea of a big number forty-five and a little number 5 nine. So with those sounds and with that little tiny 6 sound, even though the police when he got up there and 7 lie he said something very important. He said four to 8 ten feet away meaning we was from here to that TV and 9 for those two weapons to be that close and for that 10 system to not pick up something that probably sounds so 11 similar, it kind of like tricked the jurors. Like it 12 tricked the jurors in that and that's what confused 13 them. And that's another reason why I feel that the 14 judge don't think that that's scientifically legit.</p> <p>15 Q. So let me be clear though. Mr. Greene, when 16 he testified he did not offer testimony about this 17 particular shot was a nine caliber versus a forty-five 18 caliber did he?</p> <p>19 A. No, sir.</p> <p>20 Q. As to the five shots and the five sounds in 21 the audio clip he talked about, he didn't say or offer 22 testimony saying that you fired any of those shots, 23 right?</p> <p>24 A. No, sir.</p> <p>25 Q. He didn't offer testimony saying he thought</p>

<p style="text-align: right;">273</p> <p>1 S. Simmons - Examination by Mr. Jones 2 that he knew or understood what the caliber of the guns 3 were for any of those shots, right? 4 A. I can't recall him specifically saying it, 5 but he did admit that RPD did call y'all and tell y'all 6 the calibers of the gun. 7 Q. I understand that, but I'm asking a different 8 question. I understand what RPD might have said about 9 the different calibers of the guns. I'm saying when 10 Mr. Greene testified he didn't offer testimony that a 11 particular caliber of gun was used for any of those 12 particular sounds; is that correct? 13 A. He did not, but he didn't have to. Because 14 the DA and the evidence that was on paper that we was 15 shown from Shotspotter it showed that they told 16 Shotspotter the caliber of those guns. So he had 17 knowledge of the calibers of those guns. That's where 18 the trickery came in that. 19 Q. You have to listen to my question and I 20 understand in that you think it was trickery. 21 I just want to be clear. Mr. Greene did not offer 22 testimony suggesting what the caliber of guns were of 23 those sounds; is that correct? 24 A. He did not. 25 Q. Okay. Who is Darryl Kathy? Do you know who</p>	<p style="text-align: right;">275</p> <p>1 S. Simmons - Examination by Mr. Jones 2 A. Yeah, whatever y'all was talking about when 3 we was going back and forth. That's just like you know 4 how a rapper need his masters in order for him to get 5 paid a hundred percent of the money because they can go 6 back to the masters, move things around, mix it and 7 everything else. 8 That spool was the master. Y'all don't got the 9 master. You only got the duplicated replica of that 10 master and that's the problem you're having. Y'all got 11 to keep those masters. Y'all didn't keep them so RPD 12 had to call y'all and explain to y'all what happened. 13 After that y'all got rid of the masters. That's why we 14 can't find nothing. 15 Q. I'm asking a different question. In terms of 16 the audio files that you have been given in connection 17 with this case did Darryl analyze those to see if he 18 could determine whether there was any fabrication 19 connected with those files? 20 A. He did not. I don't -- maybe I do got access 21 to them from the recordings, but the information he 22 would need to show that we don't have and apparently 23 y'all don't have that information neither. So unless 24 y'all going to bring like a motherboard or the hard 25 drive that y'all had that night working to pick up them</p>
<p style="text-align: right;">274</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Darryl Kathy is? Is that name familiar to you? 3 A. That's my cousin. 4 Q. Has your cousin ever said anything to you 5 about Shotspotter in connection with your case? 6 A. He has not. Because I was not given the 7 opportunity to -- I mean he don't know -- I doubt -- he 8 may. I don't know who he know, but I doubt he know the 9 Shotspotter system as you would know it working at 10 Shotspotter, but he do know audio left and right up and 11 down, inside and out. He got ways that he could find 12 things out if anything was added, took away. He know 13 how to take away sound, add sound. He know all about 14 that. 15 Q. Okay. Has he done an analysis of the audio 16 clips that were used in connection with your trial? 17 A. I don't have that information or the -- so 18 like, you know how y'all was talking about the catch 19 stuff and all that? So the catch also got an audio 20 file that got sounds. We don't got access to that. 21 Y'all do and y'all say you lost all that. 22 Q. I'm not sure I understand what you said. You 23 said catch. Did you mean cache? 24 A. Cache. 25 Q. You're talking about cache memory?</p>	<p style="text-align: right;">276</p> <p>1 S. Simmons - Examination by Mr. Jones 2 sounds, nobody -- it's just going to be a big run 3 around until somebody could get into the actual hard 4 drive and find what y'all say can't be found. 5 Q. Yes, I understand the memory and the spool 6 and all that. I'm asking about the audio files that do 7 exist. Are you aware of any analysis of the audio 8 files that do exist that have been -- any analysis of 9 those files that has suggested fabrication that's 10 evident from those files? 11 A. That question ain't going to be able to get 12 answered. Because in order to do that, this is what 13 I'm saying to you. You can put something on a CD and 14 play it. We don't care about that. Anybody can make 15 that in their back yard and put that on and say this is 16 what it was. 17 In order for us to know what actually happened we 18 would need like the hard drive. We would need to go 19 back and look at what's not there and we don't got 20 access to that. Like y'all not going to give us that. 21 We don't have access to the stuff you need to really 22 check that unless y'all turn that over. 23 Q. Mr. Simmons, we've given you what we have. 24 Your attorney has what we have, and if he doesn't he'll 25 ask for it and we'll deal with it. I'm asking a</p>

<p style="text-align: right;">277</p> <p>1 S. Simmons - Examination by Mr. Jones 2 different question which I think the answer is no, but 3 I just want to be clear.</p> <p>4 A. So the CD that we had that we listened to 5 that was in court, no. The answer to that is no. But 6 this is what I'm saying, that CD that y'all brung to 7 court we can't get nothing from that. Because y'all 8 made that CD and recorded it and that was that. We 9 can't go in there and see track for track, speaker for 10 speaker.</p> <p>11 I don't need to be a Shotspotter employee to know 12 that in order for y'all to record audio y'all need a 13 program that is going to turn those pulses into sound 14 into waves. Like you need a whole system, like 15 sequences. Like you need certain things that do that. 16 You provided a CD with already recorded audio and said 17 this is what it was.</p> <p>18 Then when we asked for more information or where 19 was the original spool, then we get the runaround. We 20 dizzy from running in circles right now because you're 21 not giving us what we're asking and I believe y'all 22 know what we're asking because y'all a multi million 23 dollar company.</p> <p>24 I believe that people that work in your sound room 25 to listen or whoever make sure that equipment is going</p>	<p style="text-align: right;">279</p> <p>1 S. Simmons - Examination by Mr. Jones 2 So it seems to me are you aware -- do you have 3 reason to believe that we have evidence that we have 4 not provided to you or your counsel during discovery?</p> <p>5 A. You ask me do I believe that?</p> <p>6 Q. Yes.</p> <p>7 A. I absolutely do believe that.</p> <p>8 Q. What do you believe we haven't given to your 9 counsel?</p> <p>10 A. The spool that disappeared. I don't 11 understand how you and RPD got the same spool from two 12 different locations and two different systems that they 13 can go in and y'all got the same exact, you got the 14 same exact thing. RPD didn't save it. You didn't save 15 it. All type of stuff like the circle got me believing 16 this. The circle not getting down to nothing got me 17 believing this.</p> <p>18 Q. What spool are you referring to that 19 Rochester Police Department has? I'm not aware of 20 anything like that. What are you talking about?</p> <p>21 A. Paul Greene came and he testified and said 22 whatever y'all got RPD got the same access to. They 23 said RPD can go in to their computer and they can do 24 different stuff and the same thing that you can do. 25 That's according to Paul Greene words. It shocked me</p>
<p style="text-align: right;">278</p> <p>1 S. Simmons - Examination by Mr. Jones 2 good, I believe that they got degrees in audio 3 technician or audio technician. I believe that they 4 got the degrees and they know what to do to go in the 5 system and find this. We're not getting that. No 6 matter how much we ask, how many motions, how many 7 judicial subpoenas. Paul Greene didn't bring none of 8 that. You're not giving us none of that.</p> <p>9 Q. Mr. Simmons, as I said, your counsel can come 10 to me at any time and ask me for discovery and we'll 11 give it to him. So I'm not here to argue about that.</p> <p>12 A. So you just want me to say yes and no and 13 don't elaborate on my answers. So to say no to that 14 answer -- don't say why we can't prove what I'm trying 15 to say.</p> <p>16 Q. Mr. Simmons, I'm politely letting you speak 17 and elaborate, but I do want to get a precise answer 18 which is, are you aware of any analysis of the audio 19 files that you've been given through discovery that 20 suggest that those particular files are evidence of 21 fabrication?</p> <p>22 A. No.</p> <p>23 Q. Okay. Again, I appreciate the back and forth 24 and about why it may not be possible. I understand 25 that. I just wanted to get an answer to that.</p>	<p style="text-align: right;">280</p> <p>1 S. Simmons - Examination by Mr. Jones 2 that how come they don't got this information and how 3 come the people who supplied them with this system 4 don't got this information?</p> <p>5 How come in my situation where I almost died and go 6 to jail for the rest of my life. How come what y'all 7 do for a living, what y'all best at doing, how come 8 y'all can't provide this information. Y'all know what 9 we ask. Y'all asking me questions, but you know what 10 we ask.</p> <p>11 Q. Mr. Simmons, you've listened to testimony. 12 You understand that the memory on these audio sensors 13 only has a limited amount of memory, right?</p> <p>14 A. I understand that by what you telling me.</p> <p>15 Q. Okay. You understand that if this audio is 16 not captured in a certain time since it's continuously 17 recording, then information will get overwritten. Do 18 you understand that?</p> <p>19 A. I do understand that. What I don't 20 understand is that y'all got notified -- Shotspotter 21 was notified well before seventy-two hours. 22 Shotspotter was notified within nine, ten, eleven, 23 twelve -- within four hours y'all was notified and 24 y'all was supposed to -- I mean y'all don't know me. 25 Y'all don't care about me. I get that. And y'all care</p>

<p style="text-align: right;">281</p> <p>1 S. Simmons - Examination by Mr. Jones 2 about your clients requests and that's why y'all 3 changed it per client request. When y'all see a 4 officer involved shooting and my life is still winging 5 in the air and I'm not dead yet, I mean I know they 6 probably was thinking I was going to die. I just would 7 have felt that y'all would have saved a police involved 8 shooting especially when they calling you numerous 9 times trying to tell you to find stuff and find stuff 10 and find stuff. 11 I wouldn't expect a professional multi million 12 dollar company to just be like okay, we're going to 13 click this, record this out and let that override so 14 they can never find it again for the rest of their 15 life. Case closed and just let it go like that. 16 I'm not taking a smack on the ass and just walking 17 away. 18 Q. You think Shotspotter has something against 19 you personally? 20 A. And that's just the thing, I didn't think 21 that, but I also feel in my heart that if I'm paying 22 you a million dollars I just think you're going to have 23 a little bit more loyalty to me because you deal with 24 police departments. I don't know if you're all pro 25 police or what. I don't know. You didn't hear my side</p>	<p style="text-align: right;">283</p> <p>1 S. Simmons - Examination by Mr. Jones 2 in the hospital I still wasn't dead, but RPD is still 3 communicating with Shotspotter. Like why couldn't it 4 have been like any other Shotspotter episode where, 5 boom, boom, boom, police show up, Shotspotter did its 6 thing. It wasn't like that. This is the most 7 important episode of a police shooting is one of the 8 most disastrous things that you can do and if you got 9 this recorded you were supposed to have this is what it 10 was. It wasn't supposed to be changed numerous times 11 and numerous times and y'all had to go find this and go 12 find -- I just can't believe that. Because if you 13 paying me a hundred thousand dollars I'm going to make 14 sure that everything is exact. So when you getting 15 paid multi million -- when you're a multi million 16 dollar company you getting paid multi million dollar -- 17 you're signing multi million dollar contracts, in this 18 situation when they alert you four hours later and even 19 if it was on squelch mode, if it don't go over and it's 20 on squelch mode, well, how did you come up with the 21 first recording. 22 Okay. So now since you know, why did you change 23 it? Okay. Since you changed it and they still wasn't 24 satisfied you had to change it again. They still 25 wasn't satisfied you had to change it again. This is</p>
<p style="text-align: right;">282</p> <p>1 S. Simmons - Examination by Mr. Jones 2 of the story. You only heard what they was telling you 3 and trying to get right now. But y'all do know that 4 they had to call you three different times and tell you 5 your system ain't work right tonight. Change it. So I 6 can't get over that. And to me that is conspiring. 7 That is manipulating. That is everything. 8 Q. Right, but I understand your feelings on 9 this. Let me ask a couple more questions. You don't 10 blame Shotspotter for the shooting do you? 11 A. No. No. Shotspotter, you didn't shoot me. 12 No, I don't blame Shotspotter for the shooting. Y'all 13 wasn't -- I don't feel y'all was a hundred percent 14 honest. Like when I got shot I heard the officer tell 15 his man he thought I was dead. I had to be dead. And 16 because I was playing dead I had to be dead. So that 17 went with the theory. 18 Q. Okay. 19 A. So I wasn't -- let me finish. I'm sorry. 20 I'm so so sorry. 21 Q. That's okay. 22 A. When I wasn't dead it seemed like I was 23 laying in the back yard for forever and I got all this 24 blood coming out of me. I got to die soon because it's 25 leaking out. And because I didn't die, when I woke up</p>	<p style="text-align: right;">284</p> <p>1 S. Simmons - Examination by Mr. Jones 2 how I feel. That's how I feel. 3 Q. I understand. I understand. Your treatment 4 when you were in jail, you're not blaming Shotspotter, 5 they weren't involved in how you were treated, correct? 6 A. They had nothing to do, but it -- 7 Q. Mr. Simmons, I'm trying to make sure I -- 8 A. No. Okay. No. My treatment in jail had 9 nothing to do with Shotspotter. 10 Q. Okay. Has anyone from Shotspotter ever 11 personally threatened you the way you described that 12 Mr. Ferrigno or Officer Ferrigno had allegedly done to 13 you, anything like that from Mr. Greene? 14 A. No, sir. Absolutely not. 15 Q. Okay. The back and forth you described about 16 between Shotspotter and the police department about the 17 sounds and the communications, why would the Rochester 18 Police Department and Shotspotter share all those 19 communications with you if they were in fact conspiring 20 against you? Why do you feel that way? Because 21 wouldn't it be more likely that they wouldn't tell you 22 any of that if they really were trying to get at you 23 personally and conspiring? 24 MR. BURKWIT: Object to this question. 25 THE WITNESS: This is the thing.</p>

<p style="text-align: right;">285</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Rochesterians know that we got the Shotspotter system 3 in Rochester. So if I went and asked my attorneys, 4 "check Shotspotter," somebody else would have been like 5 well Shotspotter should have picked that up. That's 6 the first thing everybody says. Shotspotter should 7 have picked that up. Shotspotter should have picked it 8 up with so much faith. But what we didn't know is that 9 the communications was going to go back and forth, back 10 and forth, back and forth, back and forth, and y'all 11 was going to have to change and change and change to 12 finally y'all change it to this story. I got 13 interrogated and before I got interrogated we didn't 14 hear about a Shotspotter story. I got interrogated. 15 They gave me the lawyer. Now I'm in jail. Now as 16 we -- I still didn't hear about the Shotspotter stuff 17 until months after I was already in jail. Y'all 18 already did what y'all did and I didn't hear about this 19 until months I was in jail.</p> <p>20 I'm looking at this like, man, that's crazy. 21 Like I didn't know how the contract worked with the 22 Rochester Police and Shotspotter. I thought like that 23 was just something that the mayor had for her city and 24 I thought it was a different thing. I didn't know that 25 they can call you and have y'all change stuff. I never</p>	<p style="text-align: right;">287</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Q. Now, I appreciate that. I guess what I'm 3 trying to understand is -- well, let me ask you this, 4 are there any communications that you're aware of that 5 happened between Shotspotter and the Rochester Police 6 Department that were not provided to you in connection 7 with the criminal trial or this litigation?</p> <p>8 A. You said do I believe, do I believe that? 9 Q. Are you aware of any, yes.</p> <p>10 A. I'm not aware of it. No, I am not aware of that. 11 Q. Okay. In all the communications that you 12 have been aware of, are you aware of anything where 13 Rochester Police Department says, "Please make up a 14 shot"? Not try to find and figure out whether there 15 was an additional shot. Where they say, "Can you 16 please make up a fake shot," anything like that?</p> <p>17 A. I mean they not going to say that, make up a 18 fake shot. If they do that they going to do that on 19 their personal cell phones. They not going to have a 20 footprint of the communication of doing that. But -- 21 Q. Who do you believe -- 22 A. -- they -- 23 Q. I'm sorry. Go ahead. I didn't mean to 24 interrupt you.</p>
<p style="text-align: right;">286</p> <p>1 S. Simmons - Examination by Mr. Jones 2 knew that. I thought that, if anything, y'all alert 3 them and tell them where to go, where the shots at, how 4 many shots it was. I didn't know they had to call 5 y'all multi million dollar system that y'all record all 6 this audio on for seventy-two hours and tell y'all we 7 got so many shell casings. I need you to go back point 8 one seconds because we pay you multi million dollars 9 and you got to go back point one seconds this time and 10 point three seconds this time. I didn't know that part 11 of the aspect. I didn't know that y'all was so 12 unprofessional. I didn't know that. I didn't know 13 they had to tell y'all how to do your job and I didn't 14 know that it could be changed like that. I thought 15 once Shotspotter recorded it that was the recording. 16 So if the police said, okay, it was so many shots. 17 Once they hear the Shotspotter stuff that was the 18 shots. I didn't know they had to go back -- I didn't 19 know y'all had to go back and recalibrate y'all system 20 to go with this story and then it was good with the 21 four shots, but then you get another call so y'all had 22 to go back. So y'all had ample opportunity to find 23 them shots and y'all never found them shots and the 24 police had to keep calling y'all to find the shots. 25 BY MR. JONES:</p>	<p style="text-align: right;">288</p> <p>1 S. Simmons - Examination by Mr. Jones 2 A. When they sent all these emails they had to 3 keep sending emails and then in one of the emails they 4 saying "We need one more shot." I mean if that 5 ain't -- I mean I'm not dumb. You not dumb. I mean we 6 all not dumb in this room on this zoom call. That's 7 like a thing. If I call you -- if I text you on the 8 phone and say we ain't got enough roasts for Christmas, 9 we need one more roast. I want you to find one more 10 roast. I don't care if you go to Tops, Aldis, Big 11 Lots. I don't care where you go to get it. We need 12 one more roast. And that's just exactly what happened. 13 Q. Mr. Simmons -- 14 A. They need one more -- 15 Q. I'm sorry. I didn't mean to interrupt you. 16 Go ahead. 17 A. I'm good. 18 Q. Who is it you believe fabricated evidence at 19 Shotspotter? You've sat through depositions. You've 20 been privy to the communications. You saw Mr. Greene 21 testify. So with all that back and forth and stuff 22 that you've been given to, who is it that you believe 23 fabricated evidence in connection with your case at 24 Shotspotter? 25 A. I don't understand that question. Like</p>

<p style="text-align: right;">289</p> <p>1 S. Simmons - Examination by Mr. Jones 2 who -- like I wouldn't understand that question.</p> <p>3 Q. Mr. Simmons, you're accusing my client of 4 intentionally fabricating evidence. That's your 5 allegation, right?</p> <p>6 A. Yes.</p> <p>7 MR. BURKWIT: Jordan, for the record -- 8 BY MR. JONES:</p> <p>9 Q. And who is it at Shotspotter that you believe 10 fabricated evidence in connection with your case?</p> <p>11 A. I'm going to go with who actually did the 12 fabrication of evidence?</p> <p>13 Q. That's what I'm asking you, yes.</p> <p>14 MR. BURKWIT: It's outlined in our pleadings, 15 Jordan.</p> <p>16 MR. JONES: Actually, it's not and I'm asking 17 your client a question and he's been free to talk as 18 much as he wants with all these allegations and his 19 belief and I appreciate that.</p> <p>20 I just want to understand from his 21 perspective who does he think fabricated this evidence.</p> <p>22 THE WITNESS: And I can answer this?</p> <p>23 MR. BURKWIT: Tell him what you know, Silvon.</p> <p>24 THE WITNESS: I don't know too much because I 25 wasn't there, but from my common sense since it's audio</p>	<p style="text-align: right;">291</p> <p>1 S. Simmons - Examination by Mr. Jones 2 do. But he reminded me of like a motivational speaker. 3 Like he could tell you all good things, but that's 4 not -- what he tell you for his life ain't going to 5 happen for your life.</p> <p>6 Q. Mr. Simmons, I'm asking you a very precise 7 question. Do you think that Mr. Greene fabricated 8 evidence in your case?</p> <p>9 A. Yes.</p> <p>10 Q. Do you think he's the one who modified or 11 fabricated the audio files? Is that what you're 12 saying?</p> <p>13 A. I think he either had a yay or a nay say. I 14 believe that he got briefed on the situation so he 15 could come and know how to testify on a criminal trial 16 to try to get Shotspotter from under the fire. Yes, I 17 do believe. I'm sorry to tell you I believe -- I 18 believe you were a part of it. I ain't got nothing 19 against you.</p> <p>20 Q. Excuse me?</p> <p>21 A. I believe --</p> <p>22 Q. Excuse me, Mr. Simmons?</p> <p>23 A. Because you are --</p> <p>24 Q. Mr. Simmons --</p> <p>25 A. -- their lawyer. I believe they --</p>
<p style="text-align: right;">290</p> <p>1 S. Simmons - Examination by Mr. Jones 2 it had to be somebody a audio engineer. It had to be 3 numerous audio engineers because this a big thing. 4 Like I say, y'all probably got the best of the best 5 because y'all a multi million dollar company. So there 6 had to be some audio engineers that was involved in 7 engineering this. It had to be somebody who could give 8 approval to let that audio engineer do it. Like we 9 don't see the communications through the backgrounds 10 that y'all talk about. We only see what y'all give us. 11 But something got to happen. Somebody is monitoring 12 this and this is going through some type of audio 13 program and all type of -- it got to be like a audio 14 engineer.</p> <p>15 BY MR. JONES:</p> <p>16 Q. So I understand what you just said. Do you 17 believe that Mr. Greene fabricated the evidence?</p> <p>18 A. I believe that he -- honestly speaking, I 19 believe that that's the best -- I believe like I heard 20 him talk. I believe that everything that came out of 21 his mouth was very, very, not true. And I believe that 22 he got a skill to represent y'all to try to make it 23 look like y'all is a hundred percent legit and a 24 hundred percent like got nothing to do with nothing. 25 And he know how to explain it because that's what he</p>	<p style="text-align: right;">292</p> <p>1 S. Simmons - Examination by Mr. Jones 2 Q. Mr. Simmons, I'm counsel for Shotspotter.</p> <p>3 A. Right.</p> <p>4 Q. I had no knowledge of any of this until you 5 sued my client. So, please, don't accuse me of 6 anything. I'm not accusing you of anything. I'm 7 asking you questions.</p> <p>8 A. I'm not accusing you. I'm just telling you 9 my honest opinion, my honest opinion because they had 10 to brief you because you needed to represent them, 11 right or wrong. That's how I feel. I don't got 12 nothing against -- listen, I got family that was RPD, 13 Buffalo PD, Memphis PD. I got a certain respect for 14 the police. So it ain't like -- so this whole picture 15 got me painted as a bad guy now. You know what I'm 16 saying? So it's like in little Rochester it's like me 17 shooting at the police because of the police said this 18 and because they can call Shotspotter and have this CD 19 come and make these sounds. In my town it's like 20 somebody going after the president of the United States 21 and because the situation of who is the players in this 22 situation it's like if nobody know me and just know my 23 name, just me being involved in this situation period 24 is a not cool thing.</p> <p>25 Q. So are you aware of anyone from Shotspotter</p>

<p style="text-align: right;">293</p> <p>1 S. Simmons - Examination by Mr. Jones 2 who's ever said that Mr. Simmons fired a first shot at 3 Officer Ferrigno? Has anyone from Shotspotter ever 4 said that?</p> <p>5 A. Nobody from Shotspotter ever said that. They 6 never blatantly came out and said that.</p> <p>7 Q. Okay. Let's take a five-minute break. I 8 think I'm close to done. I want to look at my notes, 9 but I appreciate your time and your patience with me. 10 So if we can take a little break.</p> <p>11 A. Five minutes.</p> <p>12 Q. Thank you.</p> <p>13 MR. JONES: Off the record.</p> <p>14 (Recess taken.)</p> <p>15 BY MR. JONES:</p> <p>16 Q. Mr. Simmons, I don't have any further 17 questions. I want to thank you for your time and 18 patience with me.</p> <p>19 A. Can I say one more thing?</p> <p>20 Q. Sure.</p> <p>21 A. Maybe I did come at you a little rough. Now 22 that I think about it I understand you are only counsel 23 and they pay you to represent them and that's your 24 client. I get that.</p> <p>25 My thing is, as far as who I think actually</p>	<p style="text-align: right;">295</p> <p>1 S. Simmons - Examination by Mr. Jones 2 So because the police requested them to do this and 3 then do it again and then do it again, had they not did 4 it like that I wouldn't have been in jail for a year 5 and a half fighting for my life. I almost lost my life 6 in the shooting. Then I almost lost my freedom which 7 is the rest of my life, my kids and my family and the 8 rest of my life because of some audio that they got 9 Shotspotter to provide and they had a Paul Greene come 10 testify to it.</p> <p>11 Y'all had -- they had the emails where they asked 12 permission because they couldn't find it and they had 13 to go ahead. So had it not been for all of that -- I 14 don't blame you, as counsel, as being a part of a 15 conspiracy. Do you know what I'm saying? Because you 16 get paid to represent them. So I'm going to take it 17 back that I think that you are a part of the conspiracy 18 here.</p> <p>19 Q. I appreciate that. And want to thank you for 20 your time again.</p> <p>21 A. All right, man.</p> <p>22 MR. JONES: Take care of yourself.</p> <p>23</p> <p>24</p> <p>25 * * *</p>
<p style="text-align: right;">294</p> <p>1 S. Simmons - Examination by Mr. Jones 2 conspired I think the CEO, whoever was in these 3 depositions, especially Paul Greene because he came to 4 testify at RPD. I think -- I mean I blame them because 5 after me getting shot three times by the Rochester 6 Police Department I also went to jail and I had to 7 fight for my life to get out of jail. And because of 8 the Shotspotter evidence or because of whatever 9 Shotspotter provided, and the way they had to provide 10 it, that really messed my life up, man. My whole life 11 is like really messed up right now.</p> <p>12 I mean I don't expect y'all to care or whatever, 13 but that's who I'm really upset with. Because had they 14 not did all of that and would have just said this is 15 the evidence and just had everything to go with it, 16 maybe I wouldn't have went to jail for a year and a 17 half.</p> <p>18 The shooting he already shot me before Shotspotter 19 got involved. But Shotspotter did get involved and the 20 communications and the emails and everybody who knew 21 about it who had something to do with changing it from 22 three to four to five, from helicopter, I honestly 23 believe that my life could have been just a little bit 24 better had Shotspotter not got involved with the police 25 requests.</p>	<p style="text-align: right;">296</p> <p>1 S. Simmons - Examination by Mr. Jones</p>

<p>1 2 REPORTER CERTIFICATE 3 4 I, Donna Frost do hereby certify that I did report 5 in stenotype machine shorthand the proceedings held in 6 the above-entitled matter; 7 Further, that the foregoing transcript is a true 8 and accurate transcription of my said stenographic 9 notes taken at the time and place hereinbefore set 10 forth. 11 12 Dated December 29, 2020 13 At Rochester, New York 14 15 S/Donna Frost 16 17 _____ 18 19 20 21 22 23 24 25</p>	<p>297</p> <p>1 2 In the Matter of: 3 ----- X 4 SILVON S. SIMMONS, 5 Plaintiff 6 -vs- 7 JOSEPH M. FERRIGNO II, SAMUEL 8 GIANCURSIO, MARK WIATER, 9 CHRISTOPHER MUSCATO, ROBERT 10 WETZEL, MICHAEL L. CIMINELLI, 11 JOHN DOES 1-20, CITY OF ROCHESTER, 12 SHOTSPOTTER, INC., SST, INC., 13 JOHN DOES 21-30 and PAUL C. GREENE, 14 Defendants 15 ----- X 16 17 Errata sheet for the continued deposition of SILVON 18 SIMMONS taken on Thursday, December 10, 2020. 19 PAGE LINE REMARKS 20 15 _____ 21 16 _____ 22 17 _____ 23 18 _____ 24 19 _____ 25 20 _____ 26 21 _____ 27 22 _____ 28 23 _____ 29 24 _____ 30 25 _____</p>
<p>1 2 WITNESS CERTIFICATE 3 UNITED STATES DISTRICT COURT) 4 WESTERN DISTRICT OF NEW YORK) 5 6 I, SILVON SIMMONS, do hereby certify that I have 7 read the transcript of my testimony as taken under oath 8 on December 10, 2020 and that said transcript is a 9 true, complete and correct record of what was asked, 10 answered and said during said deposition, and that the 11 answers on record therein, and as may be modified in 12 conformity with the attached errata sheet, are true and 13 correct. 14 15 16 17 18 19 20 Subscribed and sworn to before me 21 this _____ day of _____, 2020 22 Notary Public 23 24 25</p>	<p>298</p>

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